

UNION AND THE STATES

RISHNASWAMI (A.)

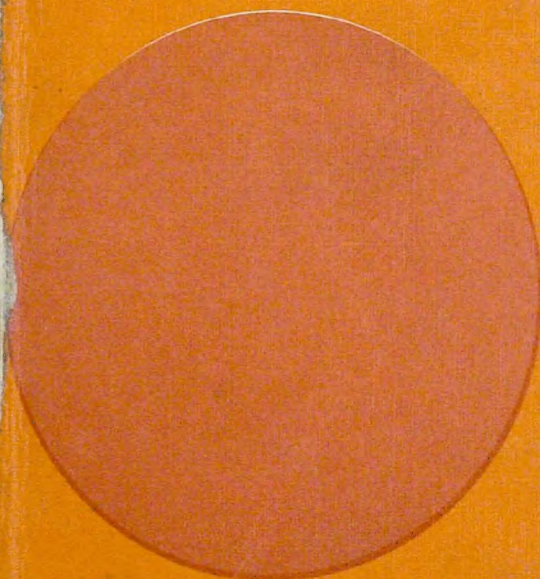
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THE INDIAN UNION AND THE STATES

A Study in Autonomy and Integration

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A Study in Autonomy and Integration

*The Sir William Meyer Endowment
Lectures delivered at the University of
Madras, December 1963*

by

Dr. A. KRISHNASWAMI

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Preface

THIS book embodies the Sir William Meyer Lectures delivered at the University of Madras, early in December 1963. A postscript is included on the developments following the death of Jawaharlal Nehru in May this year. The theme of these lectures is "The Indian Union and the States: A Study in Autonomy and Integration." The approach is partly historical, partly analytical. The author appreciates the privilege given him of presenting this study in the series of Sir William Meyer lectures. He is also grateful to the University of Madras for permitting him to publish these lectures. To his many friends who have stimulated his interest in this subject, the author owes special thanks. He is indebted to the authorities of the Parliament House Library, New Delhi, the Library of the Madras Legislature and the Madras University Library, for allowing him to utilize their facilities.

Madras
July, 30th 1964

A. KRISHNASWAMI

LECTURE I

From Unitary State to Federation

SIR WILLIAM MEYER, to whose generosity we owe the endowment which has brought us together, was noted for his devotion to duty, and solicitude for centres of learning, particularly the University of Madras. As Finance Member of the Government of India during World War I, he had the task of mobilizing resources for the war effort. One of the expedients he introduced was the Post Office Cash Certificate. These certificates are today part of our economy and have acquired importance as a method of collecting small savings.

* * *

I propose to dwell on "The Union and the States". On this subject a great deal has been written. There is so much primary material that the problem is one of discriminating choice. The theme is of perennial interest. Another reason—somewhat personal—prompts my choice. Thirty years ago my father chose, at this University,* a similar theme, "The Indian Federation—Its Constitutional Problems and Possible Solutions",† and it has been a fascinating journey of discovery for me to notice how much has changed in the last thirty years and yet how much of the present can be traced back to the vital thinking of those years.

We have travelled a long way in public finance, politics and administration since the days of Sir William Meyer. Vast changes have occurred in the climate of opinion, in the relationship between the Centre and the provinces—now States—and in the concepts of governance. But through all these changes history has reproduced itself in some degree in our polity. In the physiognomy of the Constitution of India, which came into force on the 26th of January 1950, are traceable lineaments of the Government of India Act of 1935 and its predecessors.

* i.e. Madras.

† The Indian Federation—Its Constitutional Problems and Possible Solutions, by Sir A. Ramaswami Mudaliar—University of Madras, 1933.

In these lectures I propose to deal with the evolution of Centre-State relations, how from a highly centralized state disbursing doles to administrative divisions, the centre and the provinces acquired powers to raise independent revenues; how prior to 1945 there was a trend towards fairly effective decentralization of powers and authority, partly to accommodate the Muslim majority provinces, partly to induce the Princely States to join an All-India Federation, and partly to ensure responsibility in administration; and how that trend was reversed by partition, and by the rapid process of integration of the five hundred-odd Princely States which Vallabhbhai Patel accomplished within two years. These developments form the theme of my first two lectures. In my third and fourth I will consider primarily the historical evolution of the financial relations between the Centre and the States, how in the course of the present century British Indian Provinces were vested with powers to raise revenues and control their expenditures, and how, with the emergence of a federal structure, the questions of distribution of financial resources between the Centre and the constituent units acquired crucial importance. In these two lectures I shall also consider the pattern of Centre-State relations as it arises from the recommendations of the three fiscal commissions. In the last two lectures I raise certain general issues of current importance and also indicate in broad terms the lines on which future relations between the centre and the States may be modelled so that political regeneration and national integration may be more effectively promoted in the near future.

To understand the growth of federalism in India and its consummation, the Union constitution, we must take a look at history. Originally the authority of the British Parliament was supreme and was exercised through the Secretary of State for India, a member of the British Cabinet. The control which the system provided was all-pervading. In the words of the Montagu-Chelmsford Report, "All projects for legislation, whether in the Indian or Provincial Legislatures, come home to the Secretary of State for approval in principle. Before him are laid all variations in taxations or other measures materially affecting the currency operation or debt; and generally speaking, any proposal which involved questions of policy or which raised important administrative questions or involved large or novel expenditure."

"To set out all the Secretary of State's specific power would be a long task", the report says; but it mentions "the construction of public works and railways; the creation of new appointments of a certain value, the raising of the pay of others, or the revision of establishment

beyond a certain sum; grants to local governments, or loans to Native States; large charges for ceremonial or grants of substantial political pension; large grants for religious or charitable purposes; mining leases and similar concessions and additions to the military expenditure, 'as classes of public business in respect of which he has felt bound to place close restrictions upon the powers of the Governments in India.'

Although the theory that the Secretary of State was responsible for acts done or not done by the Government of India in its civil or military capacity was modified by the growth of conventions, there were critical occasions on which the Secretary of State required the Government of India "to pay due obedience to such orders as it may receive from him".* No doubt the distance between England and India and difficulties of communications made it inevitable that those entrusted with the administration in India should enjoy considerable freedom. Thus until 1921 the Governor-General in Council was the supreme authority responsible for all acts of civil or military administration. The logic underlying this system was that the administration was one and indivisible. There was no room for other levels of Government, and this was made clear in a dispatch by Lord Crewe, Secretary of State, to the Governor-General: "There is for India one system of administration and one alone; and it is only by bearing steadily in mind this fundamental principle that the solidarity of the administration can be kept unimpaired and those disruptive tendencies controlled which must always form the chief risk of decentralization of authority. It was, therefore, in my view the duty of the local Government to uphold with all their authority the decision of the Government of India."†

This dominant conception was sufficient to prevent any advance towards autonomy in the Provinces. How effectively self-government in the Provinces could be prevented is apparent in Section. 45 of the Government of India Act of 1915.‡ All revenues of British India were vested in the Centre. Later, administrative considerations led to quasi-permanent financial settlements between the Centre and the Provinces. These settlements, based upon the assumed needs of Provinces, were effected by dividing certain heads of revenue between the

* Viscount Morley—Recollections (Vol. II).

† Report on Indian Constitutional Reforms, 1917.

‡ Section 45 of Government of India Act, 1915, says "every local Government shall obey the orders of the Governor-General in Council and keep it constantly and diligently informed of its proceedings and of all the matters which ought in its opinion to be reported to him or as to which he required information, and is under his superintendence, direction and control in all matters pertaining to the Government or its Provinces."

Centre and the Provinces. But Central control over Provincial taxation, expenditure and borrowing remained unimpaired. The Provinces could spend only according to the conditions laid down in Codes of Instructions issued by the Government of India. In part these Codes dealt with the maintenance of a uniform system of audit and accounting, the custody of public funds, remittances, economy and allied matters. But they provided for definite checks upon the powers of Provincial Governments to create new appointments or raise emoluments. Such detailed control of expenditure precluded assumption of provincial responsibility. Indeed, as the Montagu-Chelmsford Report points out, the Central Government in view of its needs took a direct interest in keeping down provincial expenditure. "As regards revenues, so long as the Government of India take a share in the proceeds they have a strong motive for interfering in the details of administration. Their interest in land revenue, for example, inevitably leads them to close supervision over revenue settlements; and the control tends to become tighter where expansion and development as in the case of irrigation depend on capital outlay."

The restraints imposed on the Provinces, by the Governor-General in Council, were more detailed and rigorous than those imposed by Whitehall on Delhi. While the obligation to obey directives and orders is couched in almost the same terms in Section 33, which defines the position of the Governor-General in relation to the Secretary of State, as in Section 45 of the Government of India Act, 1915, the latter section was interpreted and applied more widely. That was because the Government of India, being nearer to the Provinces, could act more quickly than the Secretary of State. Its control over Provincial Governments rested not only on its executive but also on its legislative authority. The Provinces were financially dependent and allowed only such liberty as the Centre chose. It was clear that the government of a country as vast as India could not be carried on, on the basis of Provinces being supplicants for directions and alms. The Decentralization Commission appointed to demarcate the areas of control by the Centre pointed out that central controls were dominated too much by considerations of mechanical efficiency. "They (the Government of India) have, we think, paid too little regard to the importance of developing a strong sense of responsibility among their subordinate agents and of giving sufficient weight to local sentiments and traditions. In our opinion the burden of work could be materially diminished if the Indian Government were to refrain from interfering in unnecessary details with the actions of the authority subordinate to them, interference which results in large measure in every administrative authority

in India having to do over again work already accomplished at a stage below. Future policy should be directed to enlarging steadily the spheres of detailed administration entrusted to Provincial Governments and the authorities subordinate to them and of recognizing that they must definitely dispose of an increasing share of the ordinary work of the Government." Public opinion as well as the opinion of enlightened officials approved this approach. But their impact on official policy was not appreciable. The Montagu-Chelmsford scheme broke away from old moorings and embarked on the task of devolution, "of drawing lines of demarcation, of cutting long standing ties". It was rightly affirmed that devolution of authority to Provinces and the growth of autonomy in these areas were not inconsistent with the maintenance of a strong Centre.

The progressive realization of responsible Governments in the Provinces led to the demarcation of functions of the Provincial Governments and Legislatures. This the Government of India Act, 1919, achieved by dividing subjects into Central and Provincial, and allocating to the Centre and the Provinces the right to raise independent revenues. Whenever any doubt arose whether a subject fell within the Central or Provincial sphere it was left to the Governor-General to decide the question. It looked as though the Act contained a germ of the idea that residuary powers belong to the Centre.

These reforms were introduced in the wake of the first World War. During these years there was considerable activity in India. Political consciousness, agitation by the educated middle class and the sacrifices made by a large number of our people in the war were not a little responsible for the declaration of a new policy by the Government of the United Kingdom. The Secretary of State for India made a statement in Parliament that there should be "a gradual development of self-governing institutions with a view to progressive realization of responsible Government in India as an integral part of the British Empire." It was the first time responsible Government was formally declared by the British Government to be its objective in India. Since responsible Government was to be reached only gradually, considerable limitations on self-government in the Provinces were laid down.

But the situation in the country was changing dramatically—in the Punjab, tragically. The Rowlatt Act of 1918* enraged the nation and was followed by riots. New forces emerged in the field of politics. The

* The Rowlatt Act, so named after Mr. Justice Rowlatt, was resented as being designed to stifle all political agitation, provided for secret trials, without right of appeal, and for the internment of suspects without trial.

Indian National Congress, under the dynamic leadership of Gandhiji, was transformed into a mass movement. Its influence was no longer confined to the Provinces, but spread over what was known as the Princely States. Political movements have a way of bringing to the horizon, in sharp focus, problems previously hardly visible. The growth of the Congress and other political movements in the Provinces and the Princely States led politicians, scholars and administrators to consider the future of both Provinces and Princely States.

The Central Legislature after 1919 influenced fiscal and commercial policies. Since the Legislature, reflected if only to a partial extent, public opinion in British Indian provinces, fiscal and commercial policies were conceived in the interests of the provinces. The Princely States not represented in the Legislature were nevertheless affected by such policies. This was equally true of social policies such as prevention of epidemics, and a common policy on liquor excise could not be effectively carried out without the co-operation of all units. Although some of these matters had been settled in the past by negotiations and improvised agreements, it was felt that permanent All India machinery had to be constituted to promote political and economic integration and solve the common needs of the country, which has geographical unity. Consideration of these issues naturally resulted in the birth of the federal idea. Only a federation could unite diverse political entities. During the 'thirties the question of how best the Princely States could be integrated with "British India" was discussed. Though no apt solution could be found, it was generally agreed that federation furnished an answer.

The 1919 Act, which created dyarchy in the Provinces, allocated certain revenues such as land revenue and excise to the Provinces and customs and income tax to the Centre. In the Provinces the allocation of expenditure as between the reserved and the transferred half of the Government was to be determined, in the event of disagreement, by the Governor. The transferred half of the Government consisted of popular Ministers responsible to the Legislature while the reserved half consisted of Executive Councillors appointed by the Governor. Actually dyarchy was less than half autonomy for the Provinces, more of the vital subjects being administered by the Reserved than by the Transferred half. But that should not blind us to a major result which ensued. With the advent of the new reforms, Provinces acquired a new political consciousness. The comparative freedom enjoyed by their legislatures helped them to build up a parliamentary tradition. Political groups and parties arose in the different Provinces and they insisted on making the Provinces autonomous. The Legislatures displayed a broader vision

in dealing with social, economic and welfare problems. In the past they could not intervene to better the social life of the people. At best they could petition the executive to take note of social ills. But an alien bureaucracy, relying on the Queen's proclamation of 1858, pursued a policy of non-intervention in these matters. The Legislatures elected in 1920 were conscious of the powers they could wield at least in the transferred departments of the Provincial Government. This widening outlook of the Legislature was illustrated by the Madras University Act of 1923, the Bengal Children Act of 1923 and the Madras Hindu Religious Endowment Act, 1924. The Madras Hindu Religious Endowment Act was the first major attempt by secular authority in India to legislate on social and religious matters. It provided for the better management of Hindu religious institutions and the preservation and better administration of their endowments. The Madras University Act was also of far-reaching importance. Until 1923 the University was virtually a Department of the Government. The Governor as Chancellor was at the head of its administration and no decision of the University was operative unless approved by him. This restriction was done away with and the University freed from the shackles of officialdom by the Act of 1923. In addition the University was transformed from an examining Board into a teaching University, with jurisdiction over the colleges in its area. The Bengal Children Act was a notable attempt by the Legislature to prevent children from being exploited and protect them "against moral and material abandonment".

Wider legislative activity, part cause and part effect of the urge for a larger freedom, paved the way for autonomy in the Provinces as well as at the Centre. When the Muddiman Committee* was constituted in 1924 to enquire into the adjustments to be made within the framework of the Act of 1919 to promote responsible Government leading public men advocated immediate provincial autonomy and abolition of the distinction between the reserved and the transferred halves—a distinction which involved irrational, if not vexatious, splitting and distribution of subjects.

* How arbitrarily the system worked out was explained by Sir Kurma Venkata Reddy, Minister for Industry in the Government of Madras: "I was a Minister for Development without forests. I was the Minister of Agriculture minus irrigation. As Minister of Agriculture, I had nothing to do with the Madras Agriculturists' Loans Act or the Madras Land Improvements Loans Act (these came under Finance which, being important, was a 'reserved' subject) . . . I was a Minister for Industries without factories, boilers, electricity and water power, mines or labour, all of which were reserved subjects."

Although the plea for immediate grant of autonomy to the Provinces did not find favour with the majority of the members of the Muddiman Committee, it was fairly clear that the Provinces were bound to assert their rights to be autonomous. A minority in the Muddiman Committee, however, urged the creation of responsible Government at the Centre and autonomy for the Provinces forthwith. This reflected the point of view of most sections in the country.

Nor can we overlook the composition of groups in the various legislatures. In certain Provinces the sections which formed the minority in India as a whole, more particularly the Muslims, were in the majority. In the Punjab and Bengal thus the Legislatures and the Ministries predominantly represented the Muslim community. The desire for autonomy in these areas strengthened the demand for a federation. In a unitary State the Provinces could at best be administrative divisions enjoying freedom no doubt but liable to control by the Centre in all spheres. But in a federation the Provinces would be autonomous units; and there would be two levels of Government, one operating at the central or federal level and the other at the Provincial level. In the field allotted to them, the Provinces would be supreme. Some were inclined to advocate the establishment of a British Indian federation.* Of course it was theoretically feasible to have such a federation, fairly homogeneous and enjoying the advantages which flow from homogeneity. But it was felt that the administration of such a federation would have to be carried on under difficult and trying circumstances and the responsibility for the administration of subjects of common concern would be considerably affected by the attitude of the Indian States.

Besides, as the Montagu-Chelmsford Report had anticipated, developments in British Indian provinces inevitably influence the pace of changes in the States. In the words of that report, "Hopes and aspirations may overleap frontier lines like sparks across a street. There are in the Native States men of like minds to those who have been active in spreading new ideas in India. It is not our task to prophesy, but no one would be surprised if constitutional changes in British India quickened the pace in the Native States as well." Most statesmen, therefore, thought that an All India Federation despite all its disadvantages for the time being, would be of greater advantage.

* The Indian Federation—Its Constitutional Problems and Possible Solutions, by Sir A. Ramaswami Mudaliar—University of Madras, 1933 (p. 13).

All these considerations led public men and financial experts in the late 'twenties and 'thirties to espouse the idea of an All India Federation. Lord Layton in his *assessment of Indian Finances** submitted to the Simon Commission affirmed that political evolution of India required the development of as large a class as possible of persons engaged in public work and administration and accustomed to public responsibility. The most important school in which this class could be trained would be in the Provinces where provincial legislature would grapple directly with the development of social services which, it was hoped, would take place in the years immediately ahead. The highly centralized administration of India had been concerned more with the primary functions of the Government than with the economic and social life of the people. Under the existing set-up, if nation-building services had to be developed on a large scale it would have entailed the employment of an army of bureaucrats without promoting efficiency. Such a massive organization directed from one centre of authority and extending over a country of the size of India had not been attempted in any democracy. The solution to India's problem was to have an All India Federation.

Lord Layton suggested a new approach to the question of financial relations between the Centre and the States. While accepting the principle of allocation of independent revenues to the Centre and the Provinces, he exposed its inadequacy for promoting nation-building by the Provinces. *He advocated the distribution of the proceeds of certain taxes to provinces on an agreed basis without involving central scrutiny and control.* For this purpose a provincial fund was to be created, consisting of the proceeds of certain excises on commodities to be distributed to the Provinces on an agreed basis. This, he pointed out, was necessary and had been adopted in most federations as the constituent units were entrusted with expansive and expensive social functions.

We should not forget the close correlation between the size of an area and its population and a democratic form of government. In the 'thirties scholars quoted the example of the United States of America, then the most populous democratically governed country. Even with the advantages of a high level of education, of a common language and culture and a sense of history, the United States of America had chosen a federal type of government in which the Union and State Governments work together over a large area for common purposes and the

* Indian Finance—Lord Layton's Report to the Indian Statutory Commission, Vol. II.

State Governments function separately for local purposes. Federation made it possible for all citizens to participate in two different layers of government—the Federal, and the State—and yet retain a sense of national unity.

Continuous discussions and interchange of views among politicians and administrators in our country led to the acceptance of an All India Federation as the best possible arrangement. By the time the Second Round Table Conference on constitutional reforms was convened in London (1931) almost every one was agreed that a detailed mapping out of the relations between the Centre and the Provinces on the one hand and the Centre and the States on the other was essential and should be completed at an early stage. Consequently the Committee on the Federal Structure, the Percy Committee (Finance) and the Committee on Railways worked out proposals for the allocation of finances between the Centre and the Units and for determining the constitutional relationship between the Indian States and the Government of India. The Joint Parliamentary Committee on Indian Constitutional Reforms considered the White Paper issued by the Government of the United Kingdom in December 1931, and the reports of the various Committees. The Committee was in general agreement with the proposals in the White Paper and the recommendations of the various Committees of the Round Table Conference. It recommended the adoption of three lists of subjects. The first consisted of Federal subjects over which the Centre had exclusive jurisdiction. The second consisted of subjects over which Provinces had exclusive jurisdiction, and the third—the Concurrent List—of subjects over which Centre and the Provinces had concurrent jurisdiction. The legislative activity as between the Federal Legislature and the Provinces of British India was delineated with considerable skill. The demarcation of areas of activity between the Federal Legislature and the Princely States was, however, rather imperfect. Perhaps this was inevitable as it was not possible to predict either the terms of the Instrument of Accession to be executed by each State or the number of States prepared to accede to the Federation. The Provinces' accession to the Federation was automatic, but States were given the option to join or not join it. Also the establishment of an All India Federation was contingent on the accession of States "entitled to choose not less than fifty-two members of the Council of State and having an aggregate population of not less than one-half of the total population of the States which had acceded to the Federation" The scheme of the Government of India Act, 1935, contemplated the accession of Indian States in regard to foreign relations, defence and communications, with option to accede in respect of other

Central subjects.* The Instrument of Accession had to specify the matters on which the Federal Legislature was to have powers to legislate for the particular State and the limitations, if any, under which the legislative and executive powers of the Federation were to be exercised in that State. Only the Federal powers over the States were enumerated, the residuary powers vesting with them. Nor were the States obliged to accede on all matters specified in the Federal List. They were also to have concurrent jurisdiction over matters specified in the Federal List, subject to the overriding authority of the Centre. Even in the Federal sphere the executive authority of the Federation in its application to the States was subject to limitations. According to Section 8 (1) (c) (ii) of the Government of India Act, the executive authority of the Federation in relation to States "may be subject to such limitations, if any, as may be specified in the Instrument of Accession of the State". The Act was not concerned with the internal constitutions of the States. In the Federal Legislature, Rulers and not the people were to select representatives of the States. Finally, the Instrument of Accession excluded from its purview the "rights and obligations of the Crown in relation to the States".

The 1935 Act came into force in 1937. The first part of the Act which related to the Provinces came into operation immediately. There were prolonged negotiations with Rulers until September 1939, when the negotiations were suspended, as few States were willing to join the Federation. Meanwhile radical opinion in British India was opposed to the constitution of an All India Federation in which dyarchy was to be transplanted at the Centre, certain subjects being placed under the direct control of the Governor-General. Nor could it reconcile itself to the special treatment meted out to States. The Muslim League became more determined in its opposition to any constitutional plan which envisaged a Central Government for the whole of India. These factors were not a little responsible for the suspension of the Federal part of the Act in 1939 when World War II broke out.

But war did not interrupt political activity in our country. The stream of national life does not stand still. All parties demanded a change in the constitution at the Centre. But they were not agreed on the terms on which they should work together. It looked as though

* Even the draft Constitution prepared for the Constituent Assembly favoured a similar All India Federation and contained special provisions relating to accession of the Indian States to the Union. In that draft the accession of the States to the Union was in respect of only three subjects—defence, external affairs and communications—whereas Central authority over the provinces extended over a wider field.

special notice had to be taken of what was happening in India. This was necessary not only to conciliate India but also to make her leaders participate in the war effort. In March 1942, Sir Stafford Cripps was sent by the British War Cabinet for talks with Indian leaders to secure their acquiescence in a plan for the settlement of the constitutional issue. The draft proposals, principally addressed to British India, aimed at the creation of an Indian Union after the war, but offered those provinces which did not accede to the Union "the same full status as the Indian Union". The States were not required to participate in the Cripps Plan. But whether a State joined the Union or kept out, it was necessary to negotiate a revision of the treaty arrangements between the Crown and the States to take account of the changed situation. The Plan was rejected both by the Congress and the Muslim League.

What happened after the failure of the Cripps Plan is common knowledge. Congress under Gandhiji started a new Civil Disobedience Movement, in which large sections of our countrymen joined. The Muslim League kept away from the "Quit India Movement" on the ground that no agreement with it had been reached by the Congress to share power in the governance of India. Shortly after the war, a Cabinet Mission was deputed to negotiate a constitutional settlement in India. The Cabinet Mission's scheme for self-government for an Indian Union was announced early in May 1946. It was divided into two parts: the first contained short-term proposals while the second dealt with the long-term arrangements to be determined by a Constituent Assembly. This Assembly was to be elected by the newly elected Provincial Legislatures;* and the Provinces were to be grouped as A, B and C, each group having the right to secede from the Union. After the Provincial and Group Constitutions had been drawn up by the three sections of the Constituent Assembly, the representatives of those sections and the Indian States were to confer with each other to settle the structure of the Union Constitution. The States were to retain all subjects and powers other than those ceded to the Union, namely, foreign affairs, defence and communications. In the early stages of Constitution-making they were to be represented on the Constituent Assembly by a Negotiating Committee. The precise form which the co-operation of the States should take was to be negotiated during the framing of the new Constitution. It was, however, made clear that the form need not be identical for all States.

* The provincial legislatures were dissolved in 1945 and fresh elections were held early in 1946.

At first the Congress Working Committee considered it unsatisfactory to have a Constituent Assembly formed by allowing States to "select" their representatives and Provincial Legislatures to elect theirs. But the Cabinet Mission pointed out that the question of how States' representatives should be selected was to be discussed and settled with the States. A weak Federal Centre was envisaged in order to conciliate the Muslim majority provinces and the Indian States. Probably the authors of the plan thought it would be better first to persuade diverse elements to co-operate in an All India Federation so that, through joint working, suspicions might be dispelled and a feeling of national unity generated. The Congress accepted this federation, limited in scope and exercising control over a minimum of essential subjects, and agreed to vest all residuary authority in the States and in the Provinces in the expectation of averting disintegration. But the stars in their courses fought against Sisera. The hopes of the Congress and the Cabinet Mission that federation would help to promote understanding and harmony were frustrated. For a year the interim Government of the two major parties, the Congress and the Muslim League, functioned. But their views on matters of common concern clashed so sharply that after a year the Government broke up. The problem of the Muslim majority Provinces proved intractable and the only solution lay in the partition of India. By the 15th of August 1947, we had two separate Dominions—India and Pakistan.

LECTURE II

Flow of Power to the Centre

I

THE decision to divide India was a cruel blow to the country's economic unity. But the leaders had reconciled themselves to the inevitability of division; disorder on a large scale occurred in different parts of the country and it was with great difficulty that the semblance of peace was maintained. The cleavage between the Muslim majority Provinces and the rest tended to widen. It was apparent that events were marching to a tragic conclusion as inevitably as in a Greek tragedy. The business of government had nearly come to a standstill. No project for developing the country had a chance of going through. So the Congress felt that it might be in the interests of all concerned to divide. It would then be possible to bring about territorial integration of India and initiate reforms speedily in a receptive environment. As for the Muslim League, it had set its heart on a sovereign State, where it was expected Muslim majority Provinces could achieve great gains. It was against this background that the plan for the partition of India was announced early in June 1947, and completed by the 15th of August.

But there were not a few in the country who questioned the wisdom of this decision. Gandhiji thought partition would lead to much sorrow and that amicable relations between the two sovereign States would take a long while to achieve. Jawaharlal Nehru, while commending the partition plan, made no attempt to hide the anguish felt by millions in our country. "It is with no joy in my heart", he said, "that I commend these proposals to you, though I have no doubt in my mind that this is the right course. For generations we have dreamt and struggled for a free and independent united India. The proposal to allow certain parts to secede, if they so will, is painful for any of us to contemplate. Nevertheless I am convinced that our present decision is a right one even from the larger viewpoint." It was imperative that what remained of India after partition should be integrated into one whole. Although the territory had contracted to some extent, the historical identity of

India had not been seriously affected. Integration was necessary on political, economic and cultural grounds. The first task of the Government of India was to bring the States into an organic relationship with the Centre. What occurred in the year following partition was a marvel of deft handling of affairs, cooperative statesmanship and massive achievement. Until the Indian Independence Act of 1947 was passed, the only link between the Princely States and the Central and Provincial Governments was the British Resident. He functioned under the Viceroy, who, as representative of the Crown, exercised paramountcy powers. These powers were expansive. Indeed the Indian States Committee, appointed in 1927 to consider the relationship between the Paramount Power and the Indian States, categorically expressed the view that "Paramountcy must remain paramount; it must fulfil its obligations, defining or adapting itself according to the shifting necessities of the time and the progressive development of the States". The Indian Independence Act released all States from their obligations to the Crown. Had the Princely States chosen to remain independent, special arrangements would have had to be made for the co-ordination of policies of common concern for India as a whole in the economic and social fields. But the Princely States did not choose this alternative. There was, however, a safeguard provided in Section 7 of the Indian Independence Act that all arrangements made in the past with regard to matters like Customs, Posts and Telegraphs would be continued until denounced by either of the parties. Accession to the Centre was deemed important. To bring about integration of the Princely States with India, the Central Government formed a States Department. Early in July 1947, Lord Mountbatten summoned a special conference of the Chamber of Princes to apprise the States of the problems they would have to face in the new set-up. He counselled the States to accede to the Dominion in respect of three subjects—Defence, External Affairs and Communications—and not to remain in isolation. The States were at liberty to link up with either of the new Dominions, India and Pakistan, but there were certain geographical compulsions which they could not evade. At the meeting of the Chamber a Negotiating Committee was formed by the States to settle the terms of accession to the Dominion of India. A sense of urgency weighed with the members of the Negotiating Committee and they advised the Rulers to accede to India in respect of Defence, External Affairs and Communications. Barring Hyderabad, Kashmir and Junagadh, all Princely States in the territory of India acceded to the Indian Dominion by the 15th of August 1947. But the integration of the States was not complete. The consolidation of small States into viable administrative units and

the introduction of democratic institutions in their areas then occupied the attention of the States Department. The small States were the weakest links in the chain of Indian States. In 1933 attempts were made to form some of them into Unions to help them to evolve a common administrative service and later to join an All India Federation. But politics and a lack of sense of urgency prevented the achievement of that aim. Consolidation of small States was discussed by the Chamber of Princes from 1939 onwards. In 1943 the Political Department announced the merger of the small western Indian States in certain larger States. The important principle was adopted that a State which was not capable of fulfilling elementary functions could not survive. Yet the attempts to form Unions of small States were unsuccessful.

The small Units had insufficient resources to maintain law and order; much less could they afford the appurtenances of democratic government. In the difficult period through which India was passing, subversive elements were creating disorder in these States. The breakdown of law and order in their areas affected the neighbouring provinces as well. This deterioration was arrested by speedily forming small Units into viable administrative Units. Integration was achieved by following a realistic policy. Some States were merged in provinces geographically contiguous to them; some were formed into viable Units known as "Union of States" and some were converted into "Centrally administered areas". Each form adopted accorded with the size, geography and similar factors relating to each State or groups of States. The process of integration did not leave unaffected even States which were viable. As integration proceeded, it became clearer that some big States were geographically interlinked and could be formed into bigger units. The formation of "Unions of States" led to an enlargement of Central jurisdiction.

Originally the States had acceded in respect of Defence, Foreign Affairs and Communications. But in the covenant establishing the Second Union of States of Rajasthan, a permissive provision was made for extending the legislative powers of the Dominions to that Union. And in subsequent covenants forming Unions it was made obligatory for the States to accept the same jurisdictional authority as was exercised in the Provinces. By tact and persuasion all Rajpramukhs were induced to sign fresh supplementary instruments of accession whereby their States acceded to the Dominion of India in respect of all matters included in the Federal and Concurrent Legislative Lists except those pertaining to taxation. Thus all States were placed on the same footing as Provinces in respect of Central Legislation, except in matters relating to taxation. The diminution of the number of small

Units led to increased economic advantages. Previously internal movement of goods was subject to vexatious restrictions imposed by many small States. But after the States had been brought into a Union, unhindered movement of goods took place, enlarging the area of trade. *Administration of justice and maintenance of law and order* were facilitated in the viable Unions. The cost of administration also diminished.

Later, on the recommendation of the Indian States Finance Enquiry Committee, agreements pertaining to taxation and fiscal policies were negotiated with the States and these provided for States being shown special consideration during a transitional period; eventually they were to be on the same footing as the Provinces.

Two States where, because of their geographical position and the historical fact of the rulers being of a different religion, special problems arose were Kashmir and Hyderabad. Kashmir's geographical contiguity with the western wing of Pakistan and the fact of the bulk of its population being Muslims made it particularly urgent for the State to join either India or Pakistan. The close links between popular movements in Kashmir and the Indian National Congress were an important factor deciding the course of events. The action of tribal hordes which overran Kashmir with the connivance, and sometimes the active support, of the armed forces of Pakistan precipitated the formal accession by Maharajah Hari Singh to India. Kashmir's special position is recognized in our Constitution (Art. 370). The closer integration we have witnessed in the last fifteen years has taken place with the specific concurrence of the popularly elected State Legislature.

The story was somewhat different in Hyderabad. The choice before the ruler of that large and populous State was not between joining India or Pakistan. There was no doubt that Hyderabad had to retain its affiliations with India because of its geographical position. But a problem arose on account of the Nizam's inability to take a decision which, had it been taken promptly, would probably have secured for Hyderabad and its ruler a special position in the constitutional structure of India. But, as it happened, a small group consisting mainly of Razakars,* virtually made the Nizam a prisoner, terrorized the local

* The Razakars or Razakar volunteers, as they were termed, had as their objective the establishment of an independent Hyderabad, comprising the whole of Deccan. They declared that the Waters of the Bay of Bengal and the Arabian Sea should wash the feet of Nizam. When disturbances occurred in Hyderabad as well as in the neighbouring States, the Government of India requested the Government of Hyderabad to put down the Razakars. Hyderabad replied that the Razakars were needed to supplement the Police force.

population, and created an explosive situation even in the neighbouring States. The situation became tense in September 1948, when there was clear and growing evidence that Hyderabad was likely to become a festering sore in the heart of India, unless the Government of India took measures immediately to prevent chaos and bloodshed both in Hyderabad and in the adjoining States. The necessary action was taken. This matter was raised in the United Nations Security Council but Sir A. Ramaswami Mudaliar, on behalf of India, proved to the satisfaction of that highly critical body that the "Police Action" by India was essential to prevent disorder in Hyderabad spreading to neighbouring States. Late in November of the same year the Nizam acceded to the Indian Union and decided to accept the Constitution framed by the Constituent Assembly of India. This decision was subject to confirmation by the Constituent Assembly of the State of Hyderabad.

Democratic institutions had not taken root in many Princely States. In British India, the provinces were free, and democratic institutions had existed for a fairly long period. Quite naturally the people of the Indian States desired to have powers transferred to them, as in British India; and counter-arguments, such as democracy being a gradual process or Indian States having to evolve constitutions suited to their genius, did not convince the people. The Centre had to take the lead and telescope changes into a short period. No doubt the transition from an absolute regime to a democratic order involved an element of risk. But the Centre took the risk knowingly and with courage.*

Since the Centre took upon itself the obligation to complete these processes quickly, its powers of intervention were increased. The powers exercised by the Centre during this period amounted to paramountcy, informed by a noble purpose, though the continuance of paramountcy in relation to States after 1950 has not been an unmixed blessing.

This bloodless revolution which took place in a brief period of over a year would not have been possible but for two factors—the skilful handling of the States problems by Vallabhbhai Patel and the sense of

* Sardar Vallabhbhai Patel observed at the Allahabad University Convocation "Almost overnight we have introduced in these States the superstructure of the modern system of Government. The inspiration and stimulus has come from above rather than from below and unless the transplanted growth takes a healthy root in the soil, there would be a danger of collapse and chaos. I should like those over-enthusiastic who feel that the problem of the States has been solved or who are impatient of further advance to reflect on this true picture. It will be folly to ignore realities. Facts take their revenge if they are not faced squarely and well."

urgency and patriotism shown by the rulers, who abandoned legalism and adopted a co-operative approach. Recommending the adoption of Article 291 of the Constitution which gives Constitutional guarantees to the commitments made by the States Department in respect of Privy Purses, he paid a well-deserved tribute to them.*

"Let us do justice to them," he said. "Let us place ourselves in their position and assess the value of their sacrifice. The Rulers have discharged their part of the obligations by transferring all ruling powers and by agreeing to the integration of their States. The main part of our obligation under these agreements is to ensure that the guarantees given in respect of privy purse are fully implemented. Our failure to do so would be a breach of faith and seriously prejudice the stabilization of the new order."

The partition of India had led to a change in the climate of opinion: people veered round to a federal structure almost unitary in character. This trend was further strengthened by the integration of States in the year following partition. The integration and democratization of States could not have taken place but for the Centre assuming a positive role. The urge to introduce parliamentary institutions in the States came, as we have seen, from the top. If parliamentary institutions broke down in the States, the Centre had sufficient powers to intervene and maintain law and order. The process of integration and democratization, however, led to the growth of Centralization.

* Vallabhbhai Patel addressing the Constituent Assembly—17th October 1949:

"Human memory is proverbially short," remarks Sardar Patel. "Meeting in October 1949, we are apt to forget the magnitude of the problem which confronted us in August 1947."

British statesmen had declared that with the lapse of paramountcy, technically and legally the States would become independent. They even conceded that theoretically the States were free to link their future with whichever Dominion they liked although in saying so, they referred to certain geographical necessities which could not be evaded. The situation was fraught with potentialities of disruption, for some of the Rulers wished to exercise their technical right to declare independence and if they exercised their right in such an unpatriotic manner they would have found support from influential elements hostile to the interests of this country.

It was against this unpropitious background that the Government of India invited the Rulers of the States to accede on Defence, External Affairs and Communications. At the time the proposal was put forward to the Rulers, an assurance was given to them that they would retain the *status quo* except for accession on these subjects. It was made clear to them that this accession did not imply any financial liability on the part of the States and that there was no intention either to encroach on their internal autonomy or the sovereignty of the States or to fetter their discretion in respect of their acceptance of the Constitution of India. There was nothing to compel or induce the Rulers to merge the identity of their States. Any use of force would have been against our professed principles.

II

Under the Constitution of India the legislative and executive authority of the Union is the same in all States including the former Princely States. The internal constitutions of States and the Provinces are determined by the Provisions of the Constitution. Articles 249, 352-60 and 371 invest the Central Government with powers to intervene in the conduct of affairs of the State Governments. According to Article 249, the Council of State is empowered by a two-thirds majority to transfer any item in the State List for a period of one year at a time either to the Concurrent or to the Union Lists. In an emergency the Constitutions of the States can be suspended and executive directions given to the State Governments. Even if the States are willing to co-operate in an emergency, the Union need not be dependent on the goodwill of the States and the Centre can, if it chooses, legislate on any item in the State List (Article 250). By Article 353, executive directions can be given by the Federal Executive to the State Governments with regard to matters necessary to meet a national emergency. According to Article 356, "if the President on receipt of the Report from the Governor of a State or otherwise is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution" the President is empowered to suspend the State's Constitution. This power, far-reaching in scope, was employed in States, for a variety of reasons. The President's rule was imposed to prevent the breakdown of administration or encroachment on the Centre's authority by the State Executive. Even when difficulties were experienced in the formation and running of Ministries the President assumed rule. At different times during the past fifteen years, the Constitution was suspended in Punjab, Pepsu, Andhra Pradesh and Kerala. The States were put in a subordinate position. The use of these emergency powers did not in all cases have adequate constitutional justification. Thus in Andhra rival claimants to power within the Congress party created difficulties for the administration. The Governor reported to the President "that the administration of the State could not be carried on in accordance with the provisions of the constitution" and the constitution was suspended.

During the past decade important developments occurred which resulted in the flow of power from the States to the Centre. Congress, an All India Party, was in power, both at the Centre and in the States, except for brief intervals in a few States. The senior members of the Union Cabinet carried greater weight with the people than the Chief Ministers of almost all States. The position was somewhat analogous to what it was in the pre-war period when Congress Provincial Govern-

ments were mapped, except for one or two, by Congressmen less eminent than those outside and in the High Command.

The Congress Party functions on a unitary basis, and works through a Working Committee.* A Parliamentary Board is entrusted with the administration of Parliamentary affairs. Even in matters pertaining to the choice and size of State Cabinets final sanction has to be obtained from the Parliamentary Board. This reduces the importance of Legislature Parties and even of Legislatures in the States.

A significant development in the post-independence period was the acceptance of planning as the mechanism for achieving certain specific economic and social objectives. The Planning Commission was established by a resolution of the Government of India early in March 1950. It was intended primarily to assess the country's resources and formulate plans for their effective utilization. It has as its Chairman the Prime Minister; and the Finance Minister is also a member. But the Planning Commission† got more and more involved in the day to day making of decisions at the Centre. As a result the Commission, instead of being a *Yojana Bhavan*‡ of devoted thinkers, formulating

* Other parties while critical of the Constitution of the Congress High Command have not been averse to copying the organizational structure of a centralized party machinery. Thus the selection of candidates for Parliament as well as State Assembly constituencies is contingent upon the approval of the Central Parliamentary Board of the High Command. This is true of the Praja Socialist Party, the Communist Party, Jan Sangh and Swatantra Party.

The Planning Commission has to (1) "make an assessment of the material, capital and human resources of the country, including technical personnel, and investigate the possibilities of augmenting such of these resources as are found to be deficient in relation to the nation's requirements;

(2) formulate a Plan for the most effective and balance utilization of the country's resources;

(3) on a determination of priorities, define the stages in which the Plan should be carried out and propose the allocation of resources for the due completion of each stage;

(4) indicate the factors which are tending to retard economic development, and determine the conditions which, in view of the current social and political situation, should be established for the successful execution of the Plan;

(5) determine the nature of the machinery which will be necessary for securing the successful implementation of each stage of the Plan in all its aspects;

(6) appraise from time to time the progress achieved in the execution of each stage of the Plan and recommend the adjustments of policy and measures that such appraisal may show to be necessary; and

(7) make such interim or ancillary recommendations as appear to it to be appropriate either for facilitating the discharge of the duties assigned to it; or on a consideration of the prevailing economic conditions, current policies, measures and development programmes; or on an examination of such specific problems as may be referred to it for advance by Central or State Governments."

‡ *Yojana Bhavan* is the office of the Planning Commission.

long-term strategy for development and applying such strategy in the context of available resources, and evaluating on a continuous basis problems of performance and solutions, became a sprawling bureaucracy and a complex Government in miniature.

The Planning Commission was not designed to reflect the views of the States. Under the terms of reference, no consultation with, nor agreement by, the States is required. To have kept the States at a distance would not have been so much of a disadvantage if the Planning Commission had remained primarily a technical body and not acquired for itself the appurtenances of power.

Once the process of planning got under way, the Commission had necessarily to consider the allocation of resources for the States. This was necessary as the agency to implement the plan in each State was the State Government and not the Centre. Agriculture, industry, education, health and power are all State subjects. But the resources required for implementing development plans in these fields had to come through special arrangements with the Planning Commission. More and more the regime of planning became biased in favour of centralization. Even activities such as education, social welfare and community development became in substance Central subjects.

The total amount of loans given on an *ad hoc* basis by the Union to the States has increased. Loans given by Centre to the States in 1958-59 amounted to Rs.221·3 crores.* In the year 1962-63 during the currency of the present Plan, Central assistance to the States was of the order of Rs.500·21 crores.* In the year 1963-64, it is 529·14 crores. Thus the quantum of assistance provided by the Union Government has increased steadily. Another notable development is the change in emphasis on basic and heavy industries in the Second Plan. This has heightened the importance of the Centre appreciably since basic and heavy industries are in the Central preserve. The Industries (Development and Regulation) Act under which all matters pertaining to a scheduled industry come within the purview of the Central Administration, and what industries should be included in the schedule of industries, is a matter for decision by the Centre. This benumbs the role of the States in the field of Industry. Foreign exchange difficulties have also resulted in strengthening the position of the Centre in relation to the States. Foreign Exchange allocations, import licensing and securing external resources by way of aid and loans are a Central responsibility and fall within the Central jurisdiction. Thus, within a decade of the inauguration of the new Constitution, the distribution of

* One crore=Ten million Rs.

functions and their relative importance to the States and the Centre have undergone a *de facto* though not a *de jure* change. This combination of circumstances—the bias in favour of the Centre, the extra-Constitutional influence exercised by the organization and functioning of the Congress Party, the setting up of the Planning Commission and the enveloping process of planning—has tended to bring about a degree of centralization far beyond what was dreamt of even by the makers of the Constitution. Is it desirable that these developments should continue? More important, is the pattern that evolved in the past decade likely to last?

LECTURE III

Financial Relations between the Centre and the States

IN MY first two lectures I traced briefly the evolution of constitutional relations between the Centre and the States and also the extra-constitutional factors which in recent years helped the trend towards centralization of power. In this and in the subsequent lecture I propose to consider the evolution of financial relations between the Central and the State Governments or what were known in earlier years as Provincial Governments.

Originally the Centre had full control over the revenues and expenditure collected and disbursed by various agencies. That power was derived from the Acts of 1853 and 1858 which treated the revenues of India as one, and gave the Governor-General in Council authority to spend them for such purpose as that body thought fit. Provincial Governments had to raise revenues but not retain them. All went into the Central exchequer. No expenditure save the most trivial could be incurred without the sanction of the Centre. But the powers and responsibilities of the Centre were more vast than any single administration could bear for long in a country as big as India, with provinces responsible for the maintenance of law and order. From 1870 onwards fixed grants were given to local Governments to maintain specific services such as Police, Jails, Education and Medical Services. The Provincial Governments were, subject to strict scrutiny, allowed to allocate funds among these services, and to provide for additional expenditure by raising fresh local taxes. This arrangement continued till Lord Lytton's (1876-80) time, when it was decided to delegate to Provincial Governments the control of expenditure upon all provincial services. Thenceforward in place of fixed grants, certain heads of revenue and parts of certain others were allocated to cover the expenditure on these services.

But the problem of adjusting resources to needs remained, since revenue receipts from the items allocated to the Provinces were insufficient for their requirements. The increasing needs of the Pro-

vinces were met by a subvention from the Centre. It took the form of a percentage of Land Revenue, then a Central item of taxation. These settlements were revised once in five years. Such revisions led to considerable bickering between the Provinces and the Centre, the former pressing for more funds, and the latter insisting on economy. But in 1904 the system of quasi-permanent settlements was adopted. Under this system the revenues assigned to a Province were not subject to alteration except in extreme necessity, or unless experience showed that the resources were disproportionate to the normal needs of a Province. Thereafter the Central Government could not raid the surpluses standing to the credit of the Provinces as it did in the past when settlements came up for revision. The resumption of surpluses penalized the more thrifty and the wiser among the Provinces, since anything saved by a Province on some object of expenditure in order to build up a fund for other purposes was appropriated by the Centre and the diminished expenditure was the basis of the next settlement. The new system was meant to give provincial Governments "a more independent position and a more substantial and enduring interest in the management of their resources than had previously been possible". Provincial settlements were made permanent in 1912 and remained in force until the advent of the Montagu-Chelmsford Reforms.

These settlements, based not on Provincial revenues but on supposed Provincial needs, led to a scramble among the Provinces for bounty from the Centre. Thus settlements were shaped mainly by pressures and influences exerted on the Central Government by the Provinces. Gopal Krishna Gokhale, an unwearied defender of public interests and a luminous critic, characterized these settlements as allocations made to Provinces, not on the basis of revenue and expenditure but on political considerations.

Central control over taxation and expenditure was exercised with rigour. Section 79 (3) (a) of the Government of India Act, 1915, prohibited the Provincial Legislature from considering, "without the previous sanction of the Governor-General, any tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the Government of India." Of course, the Provincial Legislatures could legally exploit for local purposes any new sources of taxation which they had the good fortune to discover. Even here the Central Government could stretch out its grasping hand to these resources. For the Governor-General, according to Section 45 of the Government of India Act of 1915, had power to issue "instructions", and these were issued to make Provincial Governments submit taxation proposals for sanction. The Finance

Department scrutinized the proposals and if, in its judgment, there was a remote chance of the Central Government's resources being affected, could refuse permission. Besides, the code of instructions was employed by the Government of India to enforce detailed supervision over expenditure incurred by the Provinces in all fields. Such was the state of affairs before 1918. The Montagu-Chelmsford Reforms made a break with the past by abolishing the divided heads of revenue and effecting a complete division between Central and Provincial heads of revenue. The Provinces were no longer to be treated as wards of a senior Government.

Thus the first step taken to ensure a greater measure of financial autonomy was the abolition of the system of divided heads and the adoption of independent revenues for the Centre and the Provinces. The Centre was allocated revenue from customs and excises other than alcohol and narcotics, income tax and supertax, and taxes on salt and opium. To the Provinces were given land revenue, excises on alcohol and narcotics, judicial stamps, receipts from irrigation works, forests and other State domains, registration fees and a share in future increases of income tax. This allocation was effected by the British Parliament in 1920 on the recommendations of the Meston Committee.

It was assumed—an assumption belied by what occurred in the years following the Meston Settlement—that the Centre would be faced with large deficits. To cover these deficits, the Provinces were asked to make contributions to the Centre. From the beginning the Provinces pressed for the abolition of these imposts. These were at last abolished in 1928, to the benefit mostly of the agricultural Provinces, which made the largest contributions to the Centre. Nevertheless the system of independent revenues was defective. The Provinces were entrusted with expanding and expensive nation-building activities: the sources of revenue assigned to them to meet such expenditure were inelastic and insufficient. The Centre, which had relatively stable needs, was allotted expanding sources of revenue. Secondly, no power was given to the Provinces to tax industrial and commercial activities, and this prevented the industrial Provinces from augmenting their revenues. All the appurtenances of an infra-structure for the country's development had to be provided by the Provinces.

It was apparent that expenditure on these services could be increased to a considerable extent to the great advantage of India. The inadequacy of independent revenues was underlined by Lord Layton in his survey of Indian Finance presented to the Simon Commission in 1929-30. He recommended that sources of revenue appropriate to their requirements should be made available to those authorities who

had urgent and expanding functions to undertake. All parts of India should make an equitable contribution for common needs and purposes. Those taxes which can be allocated to the Provinces are generally insufficient to meet the cost of functions entrusted to local governments. Independent revenues seldom match the functions of Provinces. Lord Layton, therefore, recommended allocations and grants from Central revenues. But allocations could involve Central scrutiny and interference, which could lead to the subservience of Provinces. Lord Layton's proposal involved no arbitrary transfer of funds from the Centre to the Provinces. To quote: "The system does not necessarily involve placing arbitrary power in the hands of the Central Government or the revival of the system of doles; for it is possible to devise automatic criteria as the basis of grants-in-aid, such as a definite percentage of the expenditure out of local funds; contributions on the basis of the number of teachers employed or of scholars at school." The scheme of allocation provided for the distribution of centrally collected revenues on the basis of origin and population. Lord Layton envisaged the use of the income tax as a balancing factor in the reallocation of revenues between the Centre and the Provinces. To meet the claims of the industrial Provinces, a substantial portion of the revenue from this tax was to be assigned to them. The Provincial Governments were to have the option of levying a surcharge on the income tax collected on the incomes of residents in the Provinces, the maximum amount leviable being limited to half the tax transferred to them, that is, to one-fourth of the total tax. In addition, a Provincial Fund was to be constituted out of the proceeds of Excise Duties on commodities like cigarettes and matches. The amounts so collected were to be distributed among the Provinces on a *per capita* basis.

Before the 1933 Act was passed by the British Parliament, Committees had examined the question of Centre-State financial relations in detail. Of special interest was the White Paper on Indian Constitutional Reforms issued in 1931 which contemplated a Federation. It recommended that a percentage, not less than 50 and not more than 75 of the net revenue derived from taxes on income other than agricultural income, and taxes on the income of companies should be assigned to the Provinces on a prescribed basis. The White Paper urged retention by the Centre, for an initial period of three years, of a prescribed amount out of the Provincial share. The amount retained was, from the fourth year, to be reduced by one-eighth of the original sum in each successive year till, by the end of the tenth year from the inception of the Federation, it ceased to be part of the Provincial share. The White Paper introduced two new features into the plan for the division of

the sources of revenue. The Federal Legislature was to be authorized by law to assign to the constituent units the whole or part of the yield on salt duties, excise duties other than those assigned to the units, and export duties.

While the power to levy the terminal taxes and death duties would vest in the Federation, the proceeds would be distributed to the Provinces, the Federation having the right to levy a surcharge for Federal purposes. But State-Centre relations were never clearly worked out. The former Indian States were outside the financial system of the rest of the country, except for certain agreements entered into with the Government of India. These related to matters like Maritime Customs, Central Excises, Posts and Telegraphs and Railways. No doubt the Round Table Conferences, the Joint Parliamentary Committee of 1933-34, and the scheme of the Government of India Act of 1935 looked forward to the accession of the States to the Indian Federation. The States were to accede in respect of Foreign Relations, Defence and Communications and, if they chose, in respect of other Central subjects as well. The picture was not clear because the problems connected with the integration of States of varying sizes and different types of relationship with the Centre were difficult to figure. The provisions relating to Federation did not materialize; those relating to the Provinces alone came into operation.

Under the scheme of the Government of India Act, 1935, agricultural income tax was transferred to the Provincial list. The Act provided for assignment to Provinces and such States as acceded, in respect of income tax, of a percentage of the net proceeds of taxes "on income other than agricultural income except in so far as these proceeds represented proceeds attributable to Chief Commissioner's Provinces or to taxes payable in respect of Federal emoluments and be for the distribution among the Provinces and the States of their share". The Centre was given the power to retain for a period amounts out of the share of income tax assigned to the Provinces and those States which elected to accede to the Centre according to Section 138. Another section of the Act provided for duties on salt, central excises, and export duties being levied and collected by the Federation; the Centre was allowed, provided it was authorized by an enactment, to assign such proceeds, wholly or in part, to Provinces and States, and to distribute them among the Provinces and States in conformity with the principles formulated in such an enactment. An exception was that 50 per cent, or a higher portion as might be determined by an Order in Council, of the net proceeds of the export duty on jute and jute products should be assigned to the Provinces or States in which

jute was grown, in proportion to their production. By another section provision was made for the payment of grants-in-aid of the revenues of those Provinces which were in need of assistance. The Government of India Act, 1935, left several questions open, and Sir Otto Niemeyer was commissioned by the Government of India to make recommendations on those and ancillary matters. The scope of his enquiry was widened to cover a review of the Provincial Governments' liabilities to the Centre. He recommended that 50 per cent of the net proceeds of income tax should be assigned to the Provinces, but pointed out that, in a federation, the distribution of these amounts among the Provinces could not be on the basis of the residence of the individual taxed. Other factors had to be taken into account to ascertain the provenance and compass of revenues. The prosperity of towns, for example, is dependent on that of the country as a whole; and the wealth of the great ports is drawn largely from the resources of the hinterland. Even assuming that it was practicable to ascertain from which part of the country particular fractions of income were drawn, none the less, in a Federation other considerations such as need and regional inequalities should weigh in the allocation of shared revenues and grants. So Niemeyer arrived at the workable conclusion that the scale of distribution should be based partly on collection and partly on population. Out of the Provincial share the Centre was allowed to retain, for the first five years, an amount equal to that by which the Central share (50 per cent) plus the contribution from Railways fell short of Rs.13 crores a year. In the succeeding five years the amount retained from the Provincial share was to be surrendered gradually. Niemeyer recommended that the jute-growing Provinces' share of the jute export duty should be raised from $12\frac{1}{2}$ per cent to $62\frac{1}{2}$ per cent of the proceeds of the duty. These recommendations were accepted by the Government of India and implemented till 1947 except for a change made in 1940. The outbreak of World War II led to increasing expenditure being incurred by the Centre. Consequently it was decided that, for the duration of the war, the Centre should retain a fixed sum of Rs.4.5 crores out of the Provincial share of income tax. Subject to this modification, the allocation of resources followed the pattern laid down by Sir Otto Niemeyer. From 1946 onwards, the amount retained by the Centre was progressively reduced by Rs.75 lakhs each year. This arrangement came to an end in 1950-51, when the full Provincial share was given to the Provinces.

The partition of India necessitated modifications of the financial arrangements between the Centre and the Provinces. The scheme of distribution of income tax and jute export duty was inevitably

affected. The Government of India reduced the amounts distributed to the divided Provinces of Bengal and Punjab in proportion to population; the difference between the amounts distributed to these Provinces and the original amounts given to the undivided Provinces was added to the released amounts of money which would have been distributed to Sind and North-West Frontier Province if they had remained part of India. These sums were pooled for redistribution among the Provinces of India. The Provincial shares fixed governed the distribution of amounts from 1947 to 1950. The basic framework of Sir Otto Niemeyer's award was retained in this distribution. But the Provincial share of the receipts from the jute export duty was reduced from 62½ to 20 per cent because the jute-growing area was much reduced as a result of partition. The basis of distribution of shares among the Provinces was, however, left untouched.

When the Constituent Assembly examined the financial relations between the Centre and the Constituent units, it was apparent that the problems had to be considered anew. For one thing, the partition of India, by altering the boundaries, brought in its wake demands on the Centre for vast expenditure on rehabilitation of displaced people; for another, the divided Provinces of West Bengal, Punjab and Assam had to face the issue of keeping their economy on an even keel. This was achieved by adopting *ad hoc* solutions. The Constituent Assembly resolved that a more thorough examination should be made of the provisions relating to finance and borrowing powers in the Government of India Act and the results of their working during the decade 1937-47. This led to the appointment of a committee of financial experts, to review the whole gamut of financial relations between the Centre and the Constituent units. Aware of the demands made on the Centre and the functions entrusted to the Provinces, the Committee started with two premises, both unexceptionable. Its members felt that in normal circumstances, that is, apart from war or large-scale internal disorder, expenditure by the Centre would be comparatively stable. But the functions allotted to Provincial Governments would necessitate growing expenditure in course of time. The volume of services transferred to them in the fields of Education, Welfare, Agricultural and general development being vast, the Provinces had to be assured of adequate resources. A division of revenues was called for which would enable the units to carry out their functions efficiently. "If these services, on which the improvement of human well-being and the increase of the country's productive capacity so much depend, are to be properly planned and executed, it is necessary to place at the disposal of the Provincial Governments adequate resources of their

own without their having to depend on the variable munificence or affluence of the Centre." Perhaps it would have been ideal if the Provinces had sufficient independent revenues. But this was not possible as augmentation of revenues by transfer of more subjects to the Provincial list would have upset the balance, and prevented the Centre from carrying out its functions.

The allocation of customs, income tax and excise duties to the Federal Government leads inevitably to imbalance, causing the constituent units to be reduced to a position of dependence. The income from these heads of revenue normally forms a higher proportion of total Government revenues than the expenditure of the Federal Government forms to total Government expenditures, so that the constituent units are short of money while the Federation has too much. The surplus available can be transferred to the constituent units either on a discretionary or on an automatic basis. The Committee affirmed that it would be impossible to avoid divided heads of revenue and that the aim should be to have a few divided heads "well-balanced and high-yielding and to arrange that the shares of the Centre and the Provinces in these heads are adjusted automatically, without friction or mutual interference".

The Committee recommended that income tax, including corporation tax and income tax on federal emoluments, should be shared between the Centre and the units, except to the extent of the yield attributable to the Centrally-administered areas. The amount allotted for distribution was fixed at 60 per cent for the Provinces, out of which 20 per cent was to be distributed on the basis of population, 35 per cent on the basis of collection, and 5 per cent was to be utilized for alleviating hardships that might result from the application of the first two criteria. Export duties were to be centralized and not shared, as in the past, with the Provinces. To compensate the four jute-growing Provinces which had hitherto received a share of this duty, fixed grants-in-aid of Rs.1 crore to West Bengal, Rs.15 lakhs* to Assam, Rs.17 lakhs to Bihar and Rs.3 lakhs to Orissa, for a period not exceeding ten years "or till the export duties on jute were abolished", were recommended. Certain other Central excise duties were to be shared with the Provinces; 50 per cent of the net proceeds of the excise duty on tobacco were to be distributed to the Provinces on the basis of estimated consumption; finally, the Constitution of a Finance Commission, which was to deal, among other things, with "matters connected with the share of revenues between the Centre and the units and the distribution among the units of their shares".

* One lakh=one hundred thousand.

The Report was presented to the Constituent Assembly late in 1947. By the time it came up for discussion, radical changes in the situation had occurred. Within less than two years of India achieving independence, all Princely States had been formed into sizeable units or merged in the neighbouring Provinces, or constituted into Chief Commissioner's Provinces. Political integration was followed by financial integration. The Indian States Finance Enquiry Committee made proposals to achieve this and they were accepted.

The Committee laid down three propositions. Firstly, the Centre should have the same authority in the States as in the Provinces. Secondly, the functions of the Union Government should be discharged by its own administrative agency in the States as in the Provinces. Thirdly, the financial jurisdiction of the Union over the heads of revenues should be the same in the States as in the Provinces. The States should be treated on the same footing as Provinces in respect of transfers of revenue grants and financial assistance from the Centre. The implementation of these principles dislocated the Budgets of the States. The disappearance from their Budgets of revenue and expenditure in respect of Union subjects which had, before integration, been under their jurisdiction, left gaps, and these had to be filled. As a result of integration the Centre gained Rs.407.63 lakhs. The loss to what were known as Princely States, including the additional expenditure incurred in order to bring administrations to a comparable standard with those in the Provinces, was Rs.981 lakhs; and to make this up alternative income had to be provided. To fill the "revenue-gap" the Committee recommended financial adjustments, taking into account the circumstances of each State. It also allowed some concessions for the transitional period to give the States time to adjust their Budgets. Rajasthan, Madhya Bharat and Hyderabad were permitted to levy inland customs duties for a few years. The loss arising from the transfer to the Centre by the States of Federal Subjects of revenue and expenditure was to be reimbursed by the Centre. The Central Government agreed to cover the federal revenue-gap in full for the first five years and on a decreasing scale for another five years. Thereafter this assistance was to cease altogether.

Political and financial integration was followed by a high tide of centralism. When the Expert Committee Report on financial provisions was taken up for discussion in the Constituent Assembly, few paused to reflect on the warnings given by that body on the resources that should be allotted to the Constituent units to enable them to carry out their functions efficiently and without interference. Indeed some went so far as to suggest that India should revert to a Unitary Constitution!

Most took it for granted that a strong political Centre could exist only if the constituent units were reduced to the position of suppliants. They seemed to overlook the fact that a strong federation could endure only with financially solvent units. A federation consists of a combination of governments which have to work together and yet work over a considerable field separately. This implies that financial autonomy should be assured to these governments to work efficiently in the field where they are enjoined to work separately. Otherwise it would be difficult to enlist their co-operation over a long period. A federation can last only if there is the cement of national feeling to hold it together; such national feeling can be nourished by recognizing the significance of diverse constituent units.

Two members, both from Assam, pointed out that the existence of financially strong States would not weaken national unity and that it is possible for a strong Centre to co-exist with financially strong units. But their pleas fell on deaf ears. So powerfully did the tide of opinion flow in favour of centralization that Dr. Ambedkar, formerly a champion of Provincial Autonomy, dismissed the arguments of State Governments as "tales of woe". Another exponent of centralization characterized the Report as perfunctory, and remarked that "no Province would be economically weak for want of finance". We were told that the drift of taxing power in all Constitutions had been towards the Centre, and this was inevitable since States had become, whether Federal or Unitary, Welfare States. Moreover, the ultimate responsibility for the economic well-being of the country lay with the Centre which would take care of the constituent units in any case. But Federations, as the Committee of Experts emphasized, have made States responsible for nation-building activities and social welfare. To be fair to the Committee, it was aware of the drift of taxing power towards the Centre. It therefore suggested that transfers should be made from the Centre to the Provinces, and these should be automatic and not "discretionary". In the debates on financial provisions, the advocates of "overwhelming" strength for the Centre did not recognize the need for transfers to States being automatic. Of course, no Province would be economically weak for want of finance from the Centre, provided it was content to be subservient.

Under the Constitution, the sources of revenues for the Centre and the constituent units followed the same pattern as in the Government of India Act, 1935. Financial relations between the Centre and the States were to be reviewed by a Finance Commission, "to be appointed first two years after the commencement of the Constitution and thereafter at the expiry of five years or at such earlier time as the

President may consider necessary". The percentage of the net proceeds of income tax to be assigned to the constituent units and the principles on which they were to be distributed were to be prescribed by an order of the President. But after the constitution of a Finance Commission, the President was to take the recommendations of the Commission into account before making an order. Specific provision was made for the payment of grants-in-aid towards promoting the welfare of the scheduled Tribes and bringing up the level of administration of Scheduled Areas in the different States. Export duties as recommended by the Committee were no longer divisible.

It was against this background of overwhelming resources in the hands of the Union and increasing responsibilities of the States that successive Finance Commissions examined the question of appropriate transfers from the Centre to the constituent units. The commissions attempted to rectify the balance in favour of the constituent units. How far they succeeded and what further steps are necessary to bring about more balanced relationship between responsibilities and resource will be discussed later.

LECTURE IV

The Finance Commissions and the States

THE Constitution enjoins the President to constitute within two years of its inception and thereafter, at the end of every five years, a Finance Commission. This body is charged with the duty of making recommendations to the President on the following matters:

- a. the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under the provisions of Chapter I of Part XII of the Constitution and the allocation between the States of the respective shares of such proceeds;
- b. the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
- c. the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part B of the First Schedule under clause (1) of Article 278 or under Article 306; and
- d. any other matter referred to the Commission by the President in the interests of sound finance.

In this provision the framework of reference to the Finance Commission does not envisage finding resources for constituent units to undertake planned development. This is not surprising since there was no clear indication at the time the Constitution was drafted of the structure and scope of planning. The Planning Commission was established much later, in March 1950, and that altered the contours of the problem. The States, because they were primarily responsible for developmental activities, were clearly in need of larger resources. But the functions of the Finance Commission were restricted to making recommendations for the sharing of revenues and the distribution of grants-in-aid. The Plan necessarily is concerned with developmental outlays. It does not distinguish between outlays incurred out of revenue and capital outlays. The bulk of the transfers from the Centre to the States after 1953 was in the shape of loans and discretionary

assistance. These were determined by the Planning Commission and the Union Ministry of Finance. In other words the role of the Finance Commission became secondary in the new context of large-scale transfers of resources to the States to meet the growing responsibilities they had to shoulder in implementing plans for development. This formed the subject of discussion in Parliament and outside. The Second and Third Finance Commissions, constituted during the currency of the Second and Third Plans, recognized that they had a secondary role to play in developmental planning. In reviewing the Finance Commissions' recommendations, we have to bear in mind the constitutional limitations under which the Commissions function.

Since the Constitution came into force we have had three Finance Commissions. These have shed penetrating light on Centre-States financial relations. All three Commissions displayed understandable interest in the expansion of the States' resources. The first Finance Commission recognized that a major proportion of the developmental activities have to be undertaken by the States. But the limitation on resources which States could raise on their own implied that their capacity to implement development plans and thus make a dent on the problems of poverty and under-employment depended on what they could secure from the Centre. This had an obviously significant political aspect. Although with one or two minor exceptions, for a brief period, the political complexion of Governments in the States and in the Union was the same, the accommodation shown to the States varied according to the strength and status of State leadership. Thus a State like West Bengal, which had as its Chief Minister a towering personality like Dr. B. C. Roy, was often able to achieve its demands more effectively than certain other States. Generally resources allocated to the Centre are more elastic and cover a larger area.* Those allocated to the States are localized and steady. In times of development Central revenues grow more rapidly than State revenues. States are usually hard up and may have to moderate their expenditure on nation-building during such times. However, the impact of bad times, depression and decline in trade and commerce, falls principally on Central finances. State finances escape it comparatively lightly. This is as it should be. The Central Government in modern times can withstand a crisis better than it could in the past as it can approach other countries for aid and assistance, and the technique of managing financial and currency policies—a responsibility of the Centre—is more advanced. The first Finance Commission, analysing the trends of revenue and

* The distribution of heads of revenue between the Union and the States is given in the annex to this chapter.

expenditure of the Union and the States, pointed out that the elasticity of tax revenue in response to changes in the general economic conditions was greater at the Centre than in the Provinces. In particular customs revenue had shot up during the war and post-war period. Union revenues received a boost on account of the post-Korean inflationary boom and of the enhancement of import and export duties during 1950-51. Customs revenue leapt from 157.2 crores in 1950-51 to 232.00 crores in 1951-52.

The revenues of the States also expanded, though more slowly. The Commission noted that new taxes like the sales tax yielded most revenue, closely followed by income tax, inclusive of the States' share of income tax and agricultural income tax. In the three years, 1950-53, the expenditure on social services rose, absorbing more funds than administrative services. From this the Commission drew the inference that the States would continue to spend more on social services and that more resources would have to be provided for them so that they might discharge their obligations to the community more efficiently.

The second and third Finance Commissions, while noting the increasing expenditure on social services, pointed out that the tax effort of many States fell far short of the Planning Commissions' estimates. The public debt of various States had increased as anticipated on account of the implementation of the plan. What, however, caused anxiety was the increase in dead-weight debt and the cost of its servicing which would fall on the general revenues, leaving less money for productive and social development. In a country having scarce resources, expenditure on economic development should generally be directed to projects which augment resources and promote the growth of revenues. If efforts are not made to ensure sufficient revenue from irrigation, electricity, transport, commercial and industrial projects, these will be a drag on future development. It is a condition precedent to planned development that projects of this kind should earn surpluses which help to pay interest charges and in addition provide funds for further economic development and social development such as the building of hospitals, schools and training centres for teachers. The latter has its place, and expenditure incurred on it adds indirectly to the productive power of the country. Generally it is undertaken from motives of social welfare and the criteria for determining its size are not the same as those for judging the value of productive projects. Taking education as an example, this is not intended mainly to furnish administration or industry with efficient recruits, though it has to aid the individual to acquire the means of livelihood. Its main purpose is to mould and strengthen character and fortify the mind against

shoddy incitements, and enlarge it to respond to new urges, thus extending the bounds of human sympathy, refinements, and interests. Thus outlay on education is highly productive. Wasteful expenditure in this field lies not in paying teachers higher salaries nor in having fully equipped schools, but in tolerating a drab and unhygienic environment for our schools and sending out pupils who forget in two years what they learnt in ten or eleven. Here, economy consists in preventing administrative waste, and providing facilities to meet needs and capacities of both backward and advanced children.

The second Finance Commission in particular has recorded a deterioration in receipts from irrigation and electricity undertakings, in most States. Far from providing surpluses, most of these enterprises worked at a loss, and interest and other charges had to be met from the general revenues.

The first Commission, apart from increasing the share of income tax to be assigned to the States from 50 to 55 per cent, extended the sphere of shared revenues. It broke new ground by recommending the sharing of 40 per cent of the proceeds of the excise duties on three commodities between the Union and the States. This could be done under Article 272 of the Constitution but this provision is permissive, not obligatory. The issue of distribution of the share of income tax among the States is complicated and controversial. The Commissions were faced with varied and conflicting claims from the States. Some urged distribution on the basis of collection and others distribution on the basis of population. West Bengal pleaded for each State to get back as a matter of constitutional right the proceeds of income tax collected within its area. According to this State, Article 270 made it obligatory for the President, after retaining the Union share, "to place the balance in the hands of the Governments in whose respective territories the taxes had been levied or to whom they were attributable". This extreme argument that the States had a natural right to the revenues collected within its borders could not be sustained. The Constitution did not recognize the right of any State to levy an income tax. The Centre alone had the right; and the question of a State being compensated for a right surrendered to the Centre did not arise. The other argument that collection showed the contribution made to the revenues had a plausible air. The collections of income tax in the two cities of Bombay and Calcutta accounted for nearly three-fourths of the total amount of income tax realized in India in 1952-53. But to suggest that the income earned in these two cities was attributable to either the State of West Bengal or the State of Bombay was misleading. Even as early as 1930 Lord Layton, in his assessment of Indian finances, remarked that it

would be a mistake to attribute expansion of income tax revenue to the special industry or good fortune of any one State.

"The absence of internal barriers", he pointed out, "in fact makes India an economic unity. Under these conditions the taxation which arises from the activity of great centres, such as Bombay and Calcutta, is properly to be regarded as due to the whole economic life of India and not merely to that of a particular territory round these ports. No one would claim in the case of Great Britain that the income tax collected in London or the customs revenue paid at the port ought to be appropriated to the local administration of London or even to that of the home counties, and the same considerations apply to *some extent to India*." The first Commission considered the taxes collected in an area an inadequate index of its contribution to the revenues. "The incomes earned in different States of India cannot be put in the same category as incomes earned in the different sovereign States. Unlike the incomes earned in the different units of federation, the incomes taxable by a sovereign State are not necessarily or directly conditioned by the policies pursued by other States." Though not much significance can be attached to the principle of collection, one cannot altogether brush it aside. This is because in a federation the principle of collection has to be given at least moderate weight. From one point of view a federation is like a unitary State and has to allot funds on the principle of need, which implies equitable division among people irrespective of the States in which they reside. But from another point of view, a federation is a group of Governments co-operating with one another for certain purposes. It would, therefore be appropriate to have a portion of the funds distributed on the principle of collection.

The first Finance Commission recommended that distribution of the assigned share of income tax among the States should be in the ratio of 20 per cent on the basis of collection and 80 per cent on that of population. This 80 per cent takes care of the principle of needs. The second Finance Commission frowned upon the principle of collection. It increased the assigned share to the States from 55 to 60 per cent. To maintain continuity, however, the Commission proposed the distribution of States' share at 90 per cent on the basis of population and 10 per cent on the basis of collection. It remarked that "this should make it easy to complete in due course the process of eliminating the factor of collection altogether and distributing the entire amount of the States' share on the basis of population". But this was a vain hope. The third Finance Commission restored the 20 per cent weightage given by the first Commission to the principle of collection. It argued that industrial States having larger collections were faced with the problems of large

concentrations of populations especially of industrial labour; of law and order, and of increased demands for administrative and social services. Further, the taxes on income paid by companies had then been excluded from the divisible pool. The major portion of the tax, the Commission argued, accrued from incomes of All India origin and the exclusion of this element from the divisible pool led to higher percentage of income tax being derived from incomes of local origin. Whatever the merits of the arguments against the principle of collection, it is clear that that principle cannot be dispensed with in a federation. At least moderate weight has to be given to it.

The third Finance Commission increased the assigned share to the States from 60 to 66½ per cent. Until 1952 Union excise duties were retained by the Centre. As we have seen, the first Finance Commission recommended the assignment to the States of 40 per cent of the collections from the levy of duties on vegetable oils, tobacco and matches. The Commission, aware of the need to give the States an assured income, selected articles of mass consumption yielding reasonably stable tax revenues. The rates of taxation imposed on these three commodities were not related to changes in the customs tariff. This share could not be distributed among the States on the basis of estimated consumption as there were no reliable data pertaining to the consumption of these commodities. But this was no disadvantage. For public revenues generally are meant to be utilized for the benefit of the people irrespective of the region in which they are and, therefore, distribution mainly on the principle of needs is adopted. The Commission accordingly chose to distribute the assigned share of 40 per cent on the basis of population.

The trail blazed by the first Commission was followed by the second and third Commissions. The second Commission expanded the list of commodities to eight. Twenty-five per cent of the net proceeds of the Union duties on matches, tobacco (including manufactured tobacco), vegetable products, tea, coffee, sugar, paper and vegetable non-essential oils were to be assigned to the States. The Commission also recommended that 90 per cent of the States' share of these excises should be distributed on the basis of population and 10 per cent utilized for making adjustments to mitigate hardships experienced by States affected harshly by distribution on the basis of population. The third Commission went further. Considering the larger role which the States had to perform as a result of the two previous plans, it had to provide more resources for the States. Also the larger revenue gaps, resulting from the impact of the recurring expenditure consequent on the implementation of the two previous plans, caused anxiety to many

Governments. This led to the majority of the States demanding that all Union excises should be made divisible. Excise duties and sales taxes are interdependent, being levied on the same commodities though by two different authorities. Sales taxation falls within the province of the States and during recent years receipts from this source have tended to languish as a result of excise taxation by the Centre. Thus there is justification for sharing revenues from all excises. The Commission recommended that 20 per cent of the net proceeds of excise duties, imposed on all commodities and yielding 50 lakhs and above, should be assigned to the States. Only the duty on motor spirits was excluded. This was because the Commission recommended 20 per cent of the revenue on motor spirits being distributed to the States for the specific purpose of improving and maintaining communications.

The broad base fixed by the Commission has two advantages. Firstly, the Union has greater freedom to vary duties without looking over its shoulder to find out whether the assigned share to the States is affected. Secondly, the States will have a more assured flow of revenue since short falls of revenue from some articles will be compensated for by increases from others. All consumer goods, intermediate goods and producers' goods, are included in the divisible pool. The share assigned to the States is, therefore, distributed mainly on the basis of population. The old argument about whether distribution should be on the basis of estimated consumption or not has lost its force. But the Commission considers that "other factors such as the relative financial weaknesses of States, the disparity in levels of development reached, the percentage of scheduled castes, tribes and backward classes should also be taken into account in determining the share to be allocated to the States individually". The precise proportion which should be allocated to the States in consideration of these factors has not been indicated. Perhaps rightly, elbow room is left for manoeuvring, since these factors, though important, cannot be determined with precision. While distribution of this assigned share is principally on the basis of population, the other amount distributed to cure disparity in levels of development, relative financial weaknesses of States and such other factors will in all probability help in meeting needs more fully.

Under Article 280 (3) (b) the Commission has to make recommendations to the President as to the criteria to be followed in making grants-in-aid to the States from the consolidated fund of India. Grants-in-aid in India have a fairly long history. The first statutory provision for making such grants-in-aid was in the Government of India Act, 1935. As we have seen, Sir Otto Niemeyer recognized that some Provinces

were intrinsically better than others and, therefore, less urgently in need of additional resources. It was therefore fair and inevitable in a federation that Provinces which were able to attain higher standards of administration should to some slight extent have to progress more slowly. He recommended a measure of assistance to various Provinces on an assessment of need.

Provision of funds by the Centre for the States would have to take into account the unequal economic endowment of States, their tax effort and economies practised in the administration. But these have to be interpreted with great care. As the first Commission points out, "with similar tax rates and equally efficient tax administration in any two States, the yield from a tax in one State may be smaller than in another, owing to differences in income levels and the degree of concentration of wealth, turnover of trade and taxable capacity in large cities. Differences in per capita taxation, therefore, should not be interpreted as necessarily reflecting differences in the tax efforts of States."

The first Finance Commission made several adjustments in States' Budgets in order to make them comparable so that need might be evaluated. These adjustments were called for to exclude abnormal, unusual and non-recurring heads of receipt or expenditure. Also adjustments had to take into account the scope for additional taxation by States, their tax effort and economy in expenditure. A State which is prepared to raise the maximum amount of revenue through taxation is better entitled to Central assistance than a State which does not act sufficiently in this direction. These principles are unexceptionable. But how is it possible to determine whether a State has raised the maximum amount of revenue? The comparative tax efforts of the State cannot be determined in arithmetical terms. Each State's tax effort has to be considered in relation to its income and, to a certain extent, political and social factors. One State may induce its citizens, as a result of an emotional upsurge, to contribute voluntarily three days' labour every year towards the making of roads. Another State may not be able to do so. But it would be wrong to penalize the latter. So these factors merit detailed and objective study. Being aware of these difficulties, the Finance Commissions have made it clear that it is "only in clear cases of inadequate taxation that this should affect the quantum of assistance a State would otherwise be qualified to get". The second Planning Commission realized the impossibility of determining clear cases of inadequate taxation. But it cut the Gordian Knot by affirming that if a State raised additional revenue which it had promised to the Planning Commission it would have done its part.

But even this is not quite satisfactory.

The level of social services attained in a particular State, and any special disabilities arising out of its composition, entitle it to more assistance. It is suggested that grants should be made to promote national purposes. To be sure, these principles are of value. It is in the translation of these principles into practice that difficulty arises. There are fiscal needs arising out of development programmes which would have to be met in addition to budgetary needs. These needs have to be considered in a broad sense and grants-in-aid should be utilized to serve the requirements of developmental planning.

This issue came up before the third Finance Commission, which had to decide whether full coverage should be given to the estimated revenue component of the plan or whether assistance should be limited on practical or other considerations. Two points of view were canvassed. Were full financial coverage given there would be difficulty in making States accept adjustments made by the Planning Commission at annual reviews. The plan is flexible and is subject to adjustments at these reviews. Besides, there is need to ensure States conforming to the priorities in provisions laid down in the plan. If full financial allocation were made, reviews by the Planning Commission would be difficult if not otiose. The other viewpoint was that the plan was endorsed by Chief Ministers in the National Development Council and approved by Parliament. Why should States be given grants on a discretionary basis (as they would be by the first argument) when the plan has been approved by Parliament? Would it not be proper to give them the green light to go ahead? If the Finance Commission recommended grants-in-aid to the full extent of the estimated revenue component of the plan, then it would be approved by Parliament and would become an integral part of the States' resources.

An illusory distinction is made between plan and non-plan expenditure. This has led to confusion, darkening counsel. The distinction between a plan and non-plan expenditure is most artificial since a large part of the so-called non-plan expenditure is a result of the plan. Expenditure incurred in one plan entails recurring expenditure, termed committed expenditure, in subsequent plans. This is one aspect of non-plan expenditure. The other element of non-plan expenditure is the so-called non-developmental expenditure, a consequence in many cases of developmental planning. Thus increased expenditure on police is a direct consequence of increased urbanization. We cannot have a major steel township without spending at least a minimum amount on maintaining administrative services, including

police and jails. While the needs of the States continue to grow, both on planned and non-planned accounts, a somewhat contradictory policy is pursued in respect of non-planned expenditure. Planned expenditure is to some extent taken into account in evolving the structure of transfer of resources; for the latter the States have by and large to fend for themselves. The third Finance Commission justifiably regarded the entire revenue budget of the States, whether planned or non-planned, as an integral whole. It suggested that generally grants intended to strengthen the State sector in matters such as education, health, and minor irrigation projects should be given on an unconditional basis and the States should have the freedom to transfer funds from one head to another whether it be plan or non-plan expenditure, keeping in view the broad objectives of the plan.

The experiment adopted during the first five-year plan of giving matching grants was a failure. It was abandoned on the recommendations of the second Finance Commission. Under this experiment States got grants according to what they could spend. But larger *per capita* grants went to the States with greater economic and financial resources. This brought about a distortion in the pattern of social services. States found it would be tactless to reject the scheme on the ground of want of resources because of fear of criticism by the public. They would be charged with not having taken advantage of a scheme which was quite desirable and had the added attraction of a Central subsidy. Hence there was a tendency to concentrate on services which qualified for matching grants at the expense of other services. The second Finance Commission pointed out that it was unwise to encourage States to run into revenue deficits by accepting such a scheme, since all revenue resources had already been fully committed to plan schemes. In addition, the States depended for a substantial portion of their revenues on shares of Central taxes and grants-in-aid. When the States had taxed themselves to the full, the balance of the revenue to enable them to meet their expenditure had necessarily to come from Central devolution. But there was no method whereby the States' share of expenditure on schemes for which matching grants were provided could be set off against revenues derived from their own independent resources (taxes). It was unwise to rely on matching grants to call forth additional tax effort. The State had to tax themselves to the maximum to meet "Plan needs".

Thus the Finance Commissions, by widening the ambit of shared revenues and recommending transfers on an unconditional basis to the States, have attempted to make them more solvent and self-reliant. Yet, paradoxically, the States are more dependent on the Centre than

ever since, as the second and third Finance Commissions point out, the loans and assistance determined by the Finance Ministry and the Planning Commission on a discretionary basis have grown in volume. "The role of the Finance Commission", remarks the third Commission, "is at best that of an agency to review the forecasts of revenue and expenditure submitted by the States and the acceptance of the revenue element of the Plan as indicated by the Planning Commission for determining the quantum of devolution and grants-in-aid to be made, and at worst its function is merely to undertake an arithmetical exercise of devolution based on amounts of assistance for each State already settled by the Planning Commission, to be made under different heads on the basis of certain principles to be prescribed." A clearer confession of the limitations under which a Finance Commission functions could not have been made. The second and the third Finance Commissions viewed with concern the transfer of resources by the Centre on an *ad hoc* basis. The grants recommended by the Finance Commission under Article 275 are much less than the grants made by the Union Government under Article 282. The latter are made at the discretion of the Union Government. The third Finance Commission remarks that "the assistance given under Article 282 was 48·7 per cent of the total in the year 1952-53 and 80·2 per cent in the budget for 1961-62." But this is not the whole picture. What is missing here is the proportion of shared revenues and statutory grants to the total transfers made each year by the Centre to the States. Should this proportion be small and show signs of declining, there would be a legitimate basis for complaints by States that their autonomy is being whittled down.

ANNEX TO LECTURE IV*

DISTRIBUTION OF REVENUES BETWEEN THE UNION
AND THE STATES

268. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the *Union List* shall be levied by the Government of India but shall be collected:

(a) in the case where such duties are leviable within any Union territory by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

269. (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely:

(a) duties in respect of succession to property other than agricultural land;

(b) estate duty in respect of property other than agricultural land;

(c) terminal taxes on goods or passengers carried by railway, sea or air;

(d) taxes on railway fares and freights;

(e) taxes other than stamp duties on transactions in stock-exchanges and future markets;

(f) taxes on the sale or purchase of newspapers and on advertisements published therein;

(g) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

(3) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce.

270. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States

* The Articles cited have been taken from the Constitution of India.

within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such times as may be prescribed.

(3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to Union territories.

(4) In this Article:

(a) "taxes on income" does not include a corporation tax;

(b) "prescribed" means:

(i) until a Finance Commission has been constituted prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;

(c) "Union emoluments" includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income tax is chargeable.

271. Notwithstanding anything in Articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those Articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

272. Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the Consolidated Fund of India to the States to which the law imposing the duty extends sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

273. (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States, such sums as may be prescribed.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as any export duty on jute or jute products continues to be levied by the Government of India or until the expiration of ten years from the commencement of this Constitution whichever is earlier.

(3) In this Article the expression "prescribed" has the same meaning as in Article 270.

274. (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

(2) In this Article, the expression "tax or duty in which States are interested" means—

(a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

275. (1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to:

- (a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule; and
- (b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

(2) Until provision is made by Parliament under clause (1) the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament:

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

276. (1) Notwithstanding anything in Article 246, no law of the Legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum:

Provided that if in the financial year immediately preceding the commencement of this Constitution there was in force in the case of any State or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

277. Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any

State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.

278. Repealed by the Constitution (Seventh Amendment Act, 1956).

279. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Comptroller and Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision of this Chapter, a law made by Parliament or an order of the President may, in any case where under this Part the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

280. (1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to:

- (a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective share of such proceeds;
- (b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
- (c) any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

281. The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

MISCELLANEOUS FINANCIAL PROVISIONS*

Article 282. The Union or a State may make any grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

Article 285. (1) The property of the Union shall, save in so far as Parliament may

by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State.

(2) Nothing in clause (1) shall, until Parliament by Law otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable, so long as that tax continues to be levied in that State.

Article 286. (1) No law of a State shall impose, or authorize the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the goods out of, the territory of India.

(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorizes the imposition of, a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.

Article 287. Save in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorize the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is:

(a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of any Railway by the Government of India or a railway company operating that railway, or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of any railway,

and any such law imposing, or authorizing the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or operation of any railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Article 288. (1) Save in so far as the President may by order otherwise provide, no law of a State in force immediately before the commencement of the Constitution shall impose, or authorize the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river valley.

Explanation.—The expression “law of a State in force” in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

(2) The Legislature of a State may by law impose, or authorize the imposition of, any such tax as is mentioned in clause (1), but no such law shall have effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.

Article 289. (1) The property and income of a State shall be exempt from Union

taxation.

(2) Nothing in clause (1) shall prevent the Union from imposing, or authorizing the imposition of, any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith.

(3) Nothing in clause (2) shall apply to any trade or business, or to any class of trade or business, which Parliament may by law declare to be incidental to the ordinary functions of government.

CHAPTER II.—BORROWING

Article 292. The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.

Article 293. (1) Subject to the provisions of this Article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under Article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.

(3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

(4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

LECTURE V

Co-operative Federalism and National Integration

THE growth of centralization of resources and, even more, of functions which in the normal course should be the responsibility of States, has led to heart-searching in many quarters. Is that pattern of development likely to promote efficient administration, public cooperation and national interest? From a highly centralized State we had emerged into a Federation. But recent developments have abridged the autonomy of States and rumblings of discontent are noticeable. An influential school of thought, however, welcomes this change. It asserts that centralization is the natural culmination of all that has occurred in our country. Indeed the history of India "from the Regulating Act, 1783, up to the present has been one of gradual growth of Central power, and the country has thus become accustomed during a period of 175 years to an effective and complicated machinery of administration controlled from the Centre".* When the Congress Party accepted a Federation it had in view the problem of Muslim majority provinces. It consented to a Federation limited to exercising jurisdiction over three subjects—Defence, Foreign Affairs and Communications—and vesting residuary powers in the Provinces. But partition brought about a change in the angle of vision. Public opinion in the country favoured a federal structure with a unitary bias. Another factor which helped considerably to concentrate power and authority at the Centre was the policy of the States Department. The merit of this policy was that the Centre acted as a catalytic force to democratize the regimes in the Princely States and integrated the States.

Even in the older federations of America and Australia, where States have their own identities and are extremely jealous of their powers, there has occurred during the past eighty years a traffic of power from the Units towards the Centre. Washington and Canberra are today more powerful than before the outbreak of World War II.

* K. M. Panikkar—Foundations of New India.

In the United States, commerce and industry and the movements of population after 1935 have been nation-wide. Naturally, Federal intervention was necessary to promote and ensure this development; and this led to the acquisition of fresh powers by the Federal Government and the creation of new agencies of administration, "Thus in the balance of strength between the central and peripheral governments the Central government has on its side the whole secular drift towards concentration of power. It has on its side technical developments that make central decisions easy and sometimes mandatory. It has on its side potent purse powers, the result of superior tax-gathering resources."* Considering these examples and taking into account the need for India to become economically powerful and surge forward, would it not be advantageous, it may be asked, to have one centre of authority instead of diverse authorities? After all the nation should look up to the Central Government for leadership. Furthermore a strong Central Government is advocated in order to achieve cohesion in a country so large as India with such a variety of linguistic, cultural and religious differences. To many observers a potent danger to the unity of India lies in fissiparous tendencies acquiring dominance in the absence of a strong central authority capable of keeping under check the parochial ambitions of local groups.

These are formidable arguments, but by no means conclusive. It is admitted both by those who espouse autonomy for the States and those who advocate increased authority for the Centre, that certain spheres of competence fall necessarily within the purview of the Centre. These include defence, external affairs, communications, currency, coinage, fiscal and monetary policies, and the general framework of civil and criminal law. Not even the most ardent champion of autonomy for the States claims that any of these subjects should be transferred to the States.

But the basic issue is whether the trend towards centralization can continue without creating stresses and strains in Centre-State relationship. Already defects inherent in the concentration of authority at the Centre are beginning to show. The growing dependence of the States on the Centre is weakening the accountability of State Cabinets to State Legislatures. This is in turn hampering the growth of responsibility in their administrations.

Therefore the issue is not whether in the conditions prevailing in India one should favour an emergence and strengthening of the separate identities of Constituent Units or whether the role of these

* Morton Grodzins—Goals for Americans (Prentice Hall). The Report of the President's Commission on National Goals.

units should be confined to that of agents of the Centre. A more important question is whether the objective of a united India operating within a democratic framework and engaging itself in certain common and urgent tasks can be secured without giving adequate recognition to the diversity of experience and conditions in the different constituent units.

The basis of a federation is the division of powers between Central and States authorities. But it must not be assumed that the Federal and State governments function in watertight compartments. Lord Bryce describes the American Commonwealth as "a great factory wherein two sets of machinery are at work, their revolving wheels apparently intermixed, their bands crossing one another, yet each set doing its own work without touching or hampering the other".* This statement cannot be accepted without qualifications. For, according to Justice McKenna in *Hoke v. United States*, in which the Mann White Slave Act was upheld in 1913: "Our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction . . . but it must be kept in mind that we are one people; and the powers reserved to the States and those conferred on the nation are adapted to be exercised, whether independently or concurrently, to promote the general welfare, material and moral." It is not correct to assume that the division of powers between the Centre and the States is so distinct as to rule out inter-governmental collaboration. In India's highly interdependent and complex society, with the great expansion of the functions of government to promote public weal, efficiency cannot be achieved by adhering to a strict separation of Governmental functions. Intermingling of Governmental functions occurred even before the modern welfare State came into being, although those who believed in the necessity of separation of functions naturally opposed a federation taking upon itself functions other than those specifically authorized. The prolonged debates in the United States of America in 1817 over internal improvements financed by the Centre led to President Madison's emphasising the necessity of "adequate landmarks to guard the boundaries between the powers of the General and the State Governments". These landmarks were not laid down. In 1836 the Federal Government made outright donations of federal land, as well as outright grants of money to the States. From 1828 to 1840 its revenues were in a buoyant condition, while those of the States were languishing. A deposit of the surplus federal revenues was distributed to States on the basis of their representation in Congress. This was an uncondi-

* The American Commonwealth—Bryce.

tional form of assistance and it took place at a time when the doctrine of separation of functions and resources was in high favour. Indeed Morton Grodzins argues: "The American Federal System has never been a system of separated Governmental activities. A long, extensive and continuous experience is the foundation of the present system of shared functions characteristic of the American Federal System. It is a misjudgment of our history and our present situation to believe that a neat separation of Governmental functions could take place without drastic alterations in our society and system of Government."*

Although a blurring of functions has taken place, there has arisen a distinct belief in the virtues of federalism. To promote growth and development, some Government decisions have to be taken at the Central level. But numerous Government services affect in diverse directions the daily life of the people, and such services cannot be regulated and administered on a uniform basis. If there is centralized regulation over the whole field, we cannot avoid uniformity. But a uniform policy cannot be expected to meet the varied needs of States and local authorities. So it is assumed that the Centre will transfer resources to States and local units without attaching conditions. This will encourage States and local units of self-government to experiment and develop fresh techniques to promote social welfare and planned progress.

The Indian Constitution surmounts the difficulty of separation of Governmental functions by demarcating a large field—the concurrent field—which the Centre can occupy. Though the demarcation of "a very large area of concurrent powers" gives the Centre power "to intervene at will and oust provincial authority" (a danger to the very being of a federation), none the less there is justification for a concurrent list in any modern federation. The rationale of a third list of subjects is supplied by the authors of the Government of India Act, 1935. "Experience has shown, both in India and elsewhere, that there are certain matters which cannot be allocated exclusively either to a Central or to a Provincial Legislature, and for which, though it is often desirable that provincial legislation should make provision, it is equally necessary that the Central Legislature should also have a legislative jurisdiction, to enable it in some cases to secure uniformity in the main principles of law throughout the country, in others to guide and encourage provincial effort, and in others again to provide remedies for mischiefs arising in the provincial sphere but extending or liable to

* Goals for Americans: Report of the President's Commission on National Goals (Prentice-Hall, 1960), pp. 268, 271.

extend beyond the boundaries of a single province. Instances of the first are provided by the subject matter of the great Indian Codes, of the second by such matters as labour legislation, and of the third by legislation for the prevention and control of epidemic disease. It would in our view be disastrous if the uniformity of law which the Indian Codes provide were destroyed or whittled away by the unco-ordinated action of Provincial Legislatures. On the other hand, local conditions necessarily vary from Province to Province and Provincial Legislatures ought to have the power of adapting general legislation of this kind to meet the particular circumstances of a Province.”*

Yet in India, while the Centre has shown no reluctance to occupy the concurrent field, it has been unwilling to discard the theory of separation of sources of revenue. It acts on the principle that a Government which raises money by taxation should not surrender control over expenditure to another authority even when that authority is performing a function in which both are vitally interested. It is clear that the States cannot, even if they practise the maximum tax effort, have sufficient resources to promote development; and therefore transfers of resources from the Centre to the States is inescapable. In these circumstances development becomes dependent on transfers from the Centre to the States, the principal agency for translating the promise of a plan into performance.

The crucial issue is whether such transfers should be determined by the Centre on an *ad hoc* basis or whether they should be more or less automatic. Those who favour a virtually unitary arrangement within the context of a federal structure would prefer the first alternative. This is so since, quite apart from the power which it confers on the Centre, it gives the Centre the weapon with which State plans can be shaped to subserve the pattern worked out at the top. But those who have faith in a living and vital democracy in which the major part of our planning and development is shaped from below would choose the second alternative. Under this alternative, the States would know any predictable resources and be able to work out plans on a realistic basis. Transfer of resources mainly on an automatic basis would further imply that the *ad hoc* element is small, and that each State would be forced to live within its means. This would promote increasing financial responsibility in the States. Financial responsibility is not merely a question of spending money well or with a due sense of economy. It is also a willingness to bear the due share of the burdens. Indeed there are built-in checks against extravagance or laxity in

* Report of the Joint Select Committee on Indian Constitutional Reforms, 1934

financial matters. There are legislatures in our States; there are Public Accounts Committees, and lastly, there is the check exercised by the Comptroller and Auditor-General. The fact of money being given to the States as a grant on an automatic basis, or an allotment being made from shared revenues, does not increase the possibility of weakening of financial responsibility. But if a State has to look up to the Centre for help on an *ad hoc* basis, more often it overstates its needs, underestimates its resources and tends to be demoralized and dependent.

This is precisely what appears to be happening. At the commencement of the first plan the total transfers from the Centre to the States amounted to less than 30 per cent of the total State expenditures—current and capital. Of these transfers nearly two-thirds were furnished on an automatic basis. By 1956–57, at the beginning of the Second Plan, the vista had radically changed. The dependence of the States on the Centre had increased substantially, the proportion of resources transferred from the Centre having risen from less than 30 to 39.2 per cent. At the same time there was a drop in the proportion of automatic transfers, with the result that the proportion of automatic transfers to total transfers dropped to a little over a third.

There was another important development in recent years. In the scheme of transfer of resources from the Centre to the States increasing reliance was placed on loans. Loans from the Centre to the States accounted for less than 75 crores in 1951–52. But by 1955–56 this figure had increased four fold; in 1963–64 the loans amounted to as much as 558 crores in a single year. Consequently the outstanding loans due to the Centre have increased. In 1956–57, outstandings due to the Centre were of the order of 1089 crores and in 1957–58, 1335 crores. In 1960–61, the outstanding loans showed a further increase and amounted to 2015 crores, and in 1963–64 the total outstandings are 2073 crores. The payment of interest and repayment of the principal are first charges on the current and capital accounts of States Budgets. These debt services have risen from 8.5 crores in 1951–52* to 178.5 crores in 1963–64.

The States have been entangled in a web. Since their revenues are limited in relation to developmental needs they have to depend on the Centre for an allocation of resources. As the bulk of these transfers from the Centre are discretionary and take the form of loans, the States have to spend ever on debt servicing and the extent of their reliance increasing amounts on *ad hoc* transfers from the Centre has become

* The figures are given in Table III.

all the greater. Altogether in the last ten or twelve years the financial position of the States has weakened and their financial independence has been greatly impaired. There has to be a reversal of gear if State autonomy is to be real.

The question arises who should decide the principles on which transfers from the Centre to the States should take place. Logically the Finance Commission ought to decide about transfers from the Centre to the States, not only of shared revenues but also of loans and other forms of shared assistance.* This is so since the latter today are far more important quantitatively than the States' share of assigned revenues. But the assignment of this function to the Finance Commission would mean that a non-executive body outside the Government can perform the functions of Government. (An anomalous position, especially as the Finance Commission is constituted by the Union Government.) In practice a compromise may have to be effected to enlarge the functions of the Finance Commission only to the extent of vesting it with powers to review and assess the functioning of the system of Central assistance and make suggestions for a more coherent and automatic basis of Central assistance.

If the proposal to make transfers from the Centre to the States on an automatic basis is accepted it will usher in a co-operative conception of the federal relationship between the States and the Union. The States and the Union must be considered complementary parts of a single organization meant to promote the general welfare of our people. Co-operative federation, provided it does not entail concentration of power at the Centre, will stimulate State initiative and offers rich promise for the future. It will be easier to work in our country than in other federations, considering the spade-work that has already taken place in many fields of activity.

Even in the past the All India Administrative Services were not exclusively Central in the sense that the officers passed their careers at the Centre. They were allotted to the States and those transferred back to the Centre brought rich and varied experience gained in their allotted States. Our Constitution adopted the original scheme of All India Services. Thus the so-called All India Administrative Services are basically oriented towards the States. Till 1945, the last year of World War II, we had a little over one-seventh of the All India Administrative Services at the Centre, the rest serving in the Districts and the capitals of the States. Today we are having one-fifth of the officers in

* Vide Reports of the Social and Third Finance Commission, more particularly the latter.

TABLE I

Year	Expenditure of all States on Current Account	Capital Disbursement of all States	Total Expenditure of all States	Automatic Transfers from Centre to States	Total Transfers from Centre to States	Transfers from the Centre Total Expenditure of all States in %	Automatic Transfers from the Centre to States Total Expenditure of all States in %
1952-53	417.03	150.45	567.48	79.81	165.78	29.2	13
1956-57	654.39	454.06	1108.45	79.38	395.50	39.2	7.2
1957-58	683.89	432.13	1116.02	167.10	504.37	45.2	15
1958-59	765.14	434.90	1200.04	207.97	568.94	47.4	17
1959-60	869.80	507.40	1377.20	221.29	643.69	46.7	16.1
1960-61	987.37	632.93	1620.30	251.74	713.09	44	15.5
1961-62	1121.27	668.56	1789.83	256.19	871.40	48.7	14.3
1962-63	1294.53	777.47	2072	306.19	1002.65	48.4	14.8
1963-64	1364.86	843.77	2208.63	310.83	1039.52	47.1	14.1

These figures are taken from the Annual Reports on Currency and Finance for the years 1963, 1958 and 1953 published by the Reserve Bank of India. The figures are given in crores. One Crore: Ten million rupees.

TABLE II

Year	Taxes under Revenue and Duties transferred to States	Grants allotted on recommendation of Finance Commission	Grants given under Art. 282	Loans and Assistance	Total of cols. 2 and 3	Total of cols. 2 to 5	Ratio of col. 6/col. 7 in %
1957-58	120.86	46.24	53.67	283.60	167.10	504.37	33
58-59	162.06	45.91	76.87	284.10	207.97	568.94	37
59-60	172.86	48.43	109.71	312.69	221.29	643.69	34
60-61	202.93	48.81	113.78	347.57	251.74	713.09	35
61-62	211.39	44.80	166.44	448.77	256.19	871.40	29
62-63	237.76	68.43	196.25	500.21	306.19	1002.65	31
B.E. 63-64	242.40	68.43	199.55	529.14	310.83	1039.52	30

These figures have been taken from the explanatory memorandum of the Finance Ministry explaining the Budget proposals for each year for the period from 1957-58 to 1963-64. For 1963-64 Budget estimates have been taken, the actuals will be published in 1964-65. The figures are in Crores. One crore: Ten million rupees.

TABLE III

Year	Loans from the Centre	Debt Services
1951-52	73.96	8.49
1955-56	299.89	18.84
1956-57	316.12	23.08
1957-58	279.20	36.99
1958-59	292.11	54.51
1959-60	294.98	72.19
1960-61	345.67	84.38
1961-62	451.35	99.66
1962-63	537.34	165.25
1963-64	557.85	178.64

These figures have been culled from the Annual Reports on Currency and Finance issued by the Reserve Bank of India. The figures are given in crores. One crore: Ten million rupees.

LECTURE VI

Balance between Centralization and Autonomy

For many years Indian opinion oscillated between centralization and decentralization. At last our people were prepared for federation. To accommodate the Muslim majority provinces, the Indian National Congress agreed to work the federal scheme. But the Muslim majority provinces were unwilling to live under an All India dispensation. Partition was the result. Time seemed to move back: we were left with the concept of a centralized state, which perhaps had at least temporary advantages. The integration of Princely States brought about with dramatic vigour by Vallabhbhai Patel added to the influence and authority of the Centre. Naturally, we framed a Constitution which, though federal in form, was unitary in content. Also during the period of sixteen odd years since independence, many factors have worked to promote concentration of power and authority at the Centre. No doubt rule by the same party both at the Centre and in all States helped to prevent instability of administration, a common feature of countries which have newly become independent. But it increased the influence of the Congress, more particularly of its high command, dominated by members of the Union Cabinet. And, too, intervention and regulation by the Centre in the economic field have played a great part in strengthening centralization.

In early stages no one visualized clearly the scale of our planning effort. The implications of a centrally worked scheme of public expenditures were not fully understood. Much less were the consequences of centralized regime and control recognized. Consequently the use to which the enabling provisions of our Constitution were put to further planning added a new dimension to central power and authority.

Whether this trend should or can continue has been examined in an earlier lecture. The States today are adults. Linguistic States are generally homogeneous and more conscious of their identity and take a pride in their achievements. They can no longer be treated as administrative divisions. Already some States are representing to Parliament,

the Planning Commission and the Finance Commission their claims for differential treatment. Thus Orissa and Assam have brought to the fore the problem of backward populations and backward areas. Their pleas that these factors should be considered in distributing shared revenues grants-in-aid and loans for promoting economic growth are a new portent. Claims for differential treatment are not confined to these two States. Indeed every State in India has problems peculiar to itself.

This brings us to the question of leadership both at the Centre and in the States. Hitherto, nationally eminent persons included in the Union Cabinet overshadowed, with rare exceptions, the Chief Ministers of States. But the race of such giants is fast becoming extinct. Nor can the few survivors perpetuate their power and authority for, after all, personal prestige and influence in politics are wasting assets. Even when central authority was at its zenith there were occasions on which the policies and decisions of the Central Government were challenged.

To illustrate this: the Centre decided early in 1956 to make Bombay a bilingual State. The local Congress unit, faithful to its leaders, strove to sell this idea to the people, but failed. And many Congress candidates tasted the bitter fruit of defeat in the 1957 elections. The unseating of prominent members of the Congress Party by relatively unknown figures led to rethinking by the Centre. Within two years the Centre reversed its policy and created the States of Gujarat and Maharashtra to satisfy public opinion.

But Government by the same party at the Centre and in the States helped to keep in the background the problem of Centre-States relations. Conflicts were resolved before differences hardened. This was noticed in West Bengal. The Government there initiated and is running the Durgapur complex of industries. This type of project falls within the province of the Industries Development Regulation Act. Had the provisions of this Act been adhered to, it would have prevented West Bengal from running these industries. But Dr. Roy, who was at the helm of affairs in West Bengal, was more than a match for the advocates of centralization. In addition he had the advantage that the party he had so long laboured to build up was in power in his own State as well as at the Centre.

But can we depend on these fortuitous circumstances continuing for any length of time? Prudence requires our providing for institutional arrangements to resolve Centre-State conflicts which are likely to occur in the future. The relative positions of State units of parties and Central organizations are bound to change, and for political parties as well as for the Union Government it will become more and more necessary to take into account the views and aspirations of the consti-

tuent units. Moreover, with the disappearance of the line of All India leaders and politicians, the future leadership of India will depend more than ever on the cadres built up in the States. Only those in the States who are able to obtain sufficient support from like-minded party men in other States and also inspire confidence in minorities and the backward groups can rise to national stature. This would imply greater flexibility of approach, a give-and-take relationship between the Union and the States and between different States. It may be a healthy development capable of breaching the present barriers based on language and background, especially between the Hindi and the non-Hindi speaking States. But will the same party continue to wield power throughout the country and in all States? History teaches that parties which come into power in the first flush of independence encounter in the course of a few years increasing challenges to their prestige and popularity. Perhaps to start with, in a few States parties of a different complexion may come into power. In this event it will be difficult, if not impossible, for the Centre to rely on the article of the Constitution for wielding "paramount authority". The Centre will have to obtain the willing assent of all States and this is possible only by creating a mechanism for collaboration.

In the years to come a great deal of thought will have to be devoted to the rationale of Centre-State relationships. The basic point is that the context in which the Constitution functioned in the first ten or fifteen years after independence was exceptional. The accidental factors which gave strength to the centralizing trend are already beginning to wear off. A new leadership is emerging and the background of this leadership is different from that of the old guard which occupied positions of authority at the centre in the first decade of independence. In the future the legislatures in the States will become increasingly conscious of their rights, and in the absence of eminent national figures who could act as mediators or arbiters smooth functioning between the Union and the States cannot be ensured unless there is a conscious effort to evolve a co-operative fabric between the Union and the States and between one State and another. If friction between the Union and the constituent units is to be avoided, it would obviously be essential to have a significantly greater degree of decentralization of effective power. In theory, it is possible to secure compliance with national policies through the establishment of a strong or omniscient centre; to some it may appear paradoxical that effective decentralization is a prerequisite for national unity and greater harmony between the Union and the States. This paradox is more apparent than real, since the choice is not between a powerful centre or a weak centre. The choice

is between a central authority which can carry the States with it, and one which has constantly to rely upon the constitutional provisions of reserve powers vested in the Centre. A central authority which relies on the latter, despite its pre-eminence in important spheres such as defence, external affairs, communications, inter-state commerce, and major industries is unlikely to serve the cause of national integration and a dynamic democracy.

In order to evolve a pattern of relationship between the Union and the States which rests more on co-operation than as at present on central control, it will be necessary to review carefully many of the existing arrangements. A prerequisite for the States adopting a mature approach to their own problems is that they must be responsible for their own finances and not be supplicants for sizeable assistance from the Centre. This implies that the transfer of resources from the Union to the States should be mainly on an automatic basis and should take account of all relevant factors such as the assessed needs of the States and their special problems, if any. A fair degree of certainty regarding their resources position would help the States to formulate their development plans, taking into account their special circumstances. In this new context the Planning Commission will still have important functions to perform. It would have to ensure internal consistency between the plans of different States, act as liaison between States so as to help them economise on scarce resources, and provide a reservoir of experience so that the different States can draw upon it.

As a corollary the present system of centralized control of industry has to be replaced by a relatively small sphere reserved for the Centre, in which the main industries would be steel, heavy machine building and defence production. In fields like power, future development must take place on the basis of a regional and finally on an All India grid, so that the economies of power which, even if it continues to be in the State list, may be exploited to the full in the light of regional requirements and potentialities. This policy of concentrating on a few major industries would work to the advantage of the Centre. For the Centre is not a star that dwells apart from the units. Central ministers cannot afford to ignore the viewpoints and requests of influential State leaders. In the years ahead pressures from these leaders are likely to be greater. Moreover, the sheer size of India and the ramifications of industrial development, involving enormous increases in supervisory and administrative costs, make it next to impossible for the Centre to exercise detailed control.

One argument advanced in favour of maintaining the present order is that the Industries Development Regulation Act helps to prevent

States from starting "prestige plants". Under a new system of control extending over a limited area, there would be no check on their embarking on such schemes. Of course the Centre can advise the States not to undertake projects without considering location and other economic factors. If, without heeding the Centre's counsel, they build "prestige plants" from their resources, they will still be accountable to their legislatures. If these grandiose schemes fail, then it will be a warning against rashness. May not this, in the final analysis, be a better check on extravagance than a system of detailed regulation, scrutiny and control by the Centre? The new pattern of co-operative federalism must be based on certain financial independence of the constituent units.

But financial independence of the States by itself is not sufficient. Co-operative federalism in the future must draw its sustenance from a properly oriented organization. In the judiciary, the executive and the legislature we have such an organization. The Supreme Court has a unique function to fulfil. It is both interpreter and guardian of Indian Constitution. It has to ensure the preservation of fundamental rights and do justice between man and man, and between man and State. It is also an arbiter of disputes between the constituent units of the Union, besides being the final court of appeal. The very existence and preservation of a democratic society depends on the existence of an independent judiciary. The Constitution safeguards the independence of our judiciary. But constitutional provisions, important though they are, are not by themselves sufficient. These may ensure judges exercising their functions "fairly and freely, without fear or favour, affection or ill-will". But the independence of judges should not be menaced by financial anxiety. In the United Kingdom, owing to increases in taxation and high cost of living, difficulties were experienced by judges "in maintaining a way of life suited to the gravity of the duties they had to discharge". Parliament raised their salaries. It would not be in the interests of the community to rely purely on social codes of behaviour and to ignore the financial and human elements. When a man becomes a High Court judge, he should have nothing to gain from further promotion. There is a curious rule which lays down one age of retirement for the High Court judge and a higher age for the Supreme Court judge, though both are of the same *genus* and discharge similar duties. The community should have the benefit of the services of High Court and Supreme Court judges until they reach the age of sixty-five, thus putting both on the same footing and giving no room for the impression that a High Court judge ranks lower and can gain by promotion to the Supreme Court. Also, an independent Bar is needed to produce great and independent judges and create the atmosphere in

which they flourish. This in turn will foster respect on the part of society for the judiciary and create greater confidence in the administration of justice. We have a judicial tradition, which it should be our endeavour to preserve and enlarge.

The functions of the executive and the legislature, both at the Centre and in the States, are complementary to each other. The rationale of All India Services was dealt with in the preceding lecture. Here it has to be emphasized that a to-and-fro movement would be a healthy development not only for the All India Services but also for outstanding men and leaders of parties occupying positions or responsibility at the Centre and in the States. In the present circumstances this matter can be considered only by the party in power. Unfortunately, the impression has gained ground that States Ministers and Central Ministers are on different sides of the fence. If there is a two-way traffic between the Centre and the States, Central Ministers will not have the pre-eminence they enjoy today in relation to their counterparts in the States. The sense of separateness so much in evidence now will vanish. If, for example, a central Education Minister could move over to his State for a period as an Education Minister, or vice versa, he would look upon most problems as common to both. Such an arrangement would be much more rational than the ten-year rule,* which, however, has not been enforced. This rule envisages retirement of Ministers to work outside. How unreasonable this is will be apparent if one considers the facts of life. The goal of all political endeavour is to achieve power, power to do good to the people. In the context of a parliamentary democracy a rule which limits the number of years for which power can be enjoyed will not be enforced. Or, if enforced, it will add to the occupational hazards of politicians without producing any beneficial results. It may terminate useful careers and, worse, induce those in office to make hay while the sun shines. Perhaps it would be more reasonable to have a stay of ten years in office interrupted by a spell in the States either as Minister or as front-bench leader of the opposition when his party is not in power. This suggestion, if accepted, will have to be enforced by a convention.

Bagehot describes the House of Commons as a unique agency for fulfilling "an expressive function". "It is its office", he points out, "to express the mind of the English people on all matters which come before

* Mr. Sanjiva Reddy, a former President of the Indian National Congress, proposed that no Congressman should be in office as Minister for more than ten years. This suggestion was made presumably to provide opportunities for younger men in the Congress Party to become Ministers.

it." Much the same could be said of the Indian Parliament and the State Legislatures in their spheres of activity. We cannot regard the functions of our Parliament as something of a different genus, distinctive and different in character from those of State Legislatures. The State legislator deals with the issues pertaining to his constituency, to his State and to Centre-State relationship. It is rarely that a member of a State Legislature takes interest in what happens outside the borders of India.

One of the few occasions on which a State Legislature discussed external affairs was when the plight of people of Indian origin in a neighbouring country caused anxiety. Ties of blood and community of interest moved members of the legislature to express their views. Though they were aware that it was not their normal function to discuss foreign affairs, they thought that in those unusual circumstances, their opinions should be brought to the notice of Parliament and the Union Cabinet.

A member of Parliament has to interest himself in issues relating to his constituency, in questions bearing on his State, in All India problems and in foreign affairs. Sometimes too he must speak on world issues such as defence of human rights and protection of the human race from thermonuclear destruction. Parliament being the forum of the nation, no limits should be placed on the expression of views save considerations of decency and propriety. This has been frequently brought to the Nation's notice by great Speakers like Mavlanker and Sardar Hukum Singh and great Chairmen of the Council of States like Dr. Radhakrishnan and Dr. Zakir Hussain.

What surprises most observers is the attempt made in certain quarters to discountenance the expression of views on local matters on the ground of their being parochial. It would of course be unfair to Parliament and the nation if a member were to speak only of his constituency or his State. If he does not speak of his constituency or State at all he ignores an essential function for which he has been elected to the House. "It ought to be the happiness and glory of a representative", says Burke, "to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents; their wishes ought to have great weight with him, their opinion high respect and their business unremitted attention." But there should be no rigid limit to a member's sympathies. It has been said that a distinguishing feature of the House of Commons is its readiness occasionally to depart from set patterns of party discipline when the needs of the nation warrant such departure. The debates on the German invasion of Norway early in 1940, and on Suez in 1956,

showed how the nation felt and went beyond what party managers would have wished. It would be to India's advantage if she emulated the House of Commons.

Apart from fulfilling its normal function, the Indian Parliament has to play a vital role in strengthening the bonds of co-operation between the Centre and the States and between one State and another. It cannot do so unless members are encouraged to participate in discussions on matters affecting States other than their own. Yet this desideratum is often overlooked. Thus members from territorial constituencies rarely participate in debates on reports of the commission on the welfare of scheduled castes and tribes. It is presumed that only scheduled castes' representatives take an interest in these subjects. This is not correct. Parliament should not be made to suffer from narrowness of interest. Indeed it would be better if the majority of speakers were drawn from other sections of the House so that Parliament's interest in the uplift of scheduled castes and tribes might be known not only to the latter but also to the nation, which has pledged itself, under the Constitution, to remove all social disabilities.

Happily, almost compensating for the exclusiveness of the Scheduled Castes and Tribes debates, Jawaharlal Nehru on more than one occasion intervened to broaden debates and turn all eyes to a wider horizon. I recollect his speech on the Registration of Converts Bill. He exposed a serious danger involved in the measure in that, if it was passed, it would have paved the way for social pressures and police interference with a man's choice of a faith. He appealed to members to consider this issue, as one affecting not merely a particular sect but the entire community. The Bill was lost, only one member voting for it. Again, when the House in 1961 was discussing the Assam disturbances, members from Bengal and Assam had occupied almost the whole time and Jawaharlal Nehru flashed out that Parliament was not an Assembly of Bengal and Assam but the Assembly of the nation. Followed speeches by members from other States.

Parliament should pay greater attention to Centre-State problems. But it meets only for seven months in the year and has insufficient time to consider these issues and the measures that ought to be taken to integrate our nation. Other countries experienced similar disadvantages but have at least in some measure surmounted them. One device they have adopted is the committee method.

Centre-State co-operation in our country can be promoted through the functional committees elected by Parliament and enjoying the same status and authority as the Public Accounts and Estimates Committees. Those committees should be concerned with the many

aspects of Centre-State community of interest and more important, conflicts of interest between the Centre and the States. The size of our Parliament prevents anything like a free and informal exchange of views on all subjects. But this disadvantage can be overcome in a Parliamentary committee, where different shades of opinion are afforded adequate opportunity to confront one another and reach agreement. The unity of India does not depend on everyone conforming to the same opinion.

Another method of promoting Centre-State co-operation would be the adoption of an organization for regular convocations of Union and State governments. Such a suggestion for Canada was made by Prime Minister Mackenzie King nearly thirty years ago. He said: "This arrangement of continuity and permanence is necessary, because co-operation between the Dominion and the Provinces is too vital a matter to be left entirely for intermittent conferences and to correspondence between governments. Our secretarial arrangement and our proposed organization are based upon this desire to have permanence and continuity."

The Rowell Sirois Commission endorsed this proposal. The reasons given by this body have a much wider import than their applicability to Canada.

"The complexities", said the members of the Commission "of our social, political and commercial organization have now reached a point where the earlier view, once widely held, that all Dominion-Provincial difficulties arising from disputes over jurisdiction could be settled by a strict demarcation of powers and responsibilities must be finally abandoned. A clear demarcation of legal power is still theoretically possible, but the functions of government in the modern state cannot be divided sharply between central and local authorities as can legislative power." The members pointed out that many functions inherently unitary in character were in fact divided between the Dominion and the provinces by the division of legislative power. Public health, the regulation of marketing, the control of business, were conspicuous examples. In such matters there would be gaps and inefficiency in governmental control without at least a measure of co-operation and uniformity of method between different governments. This mingling of duties, powers and responsibilities between the Dominion and the provinces demanded sympathetic, constant and efficient co-operation between these governments.

"Moreover, it is in the interests of the provinces themselves" the Commission explained, "that efficient methods of co-operation be devised. The tendency in most federal states has been towards centralization

at the expense of the provinces (or states). In so far as matters requiring uniformity of treatment, or concerted action can be dealt with by co-operation among the provinces, or between the Dominion and the provinces, the case for additional centralization to promote efficiency or uniformity will not arise."

It would be useful particularly if the Centre-State conferences were convened after having the agenda prepared by a permanent secretariat. This system is to be preferred to the present National Development Council which consists of Union Cabinet Ministers, Members of the Planning Commission and Chief Ministers of States which meets on an *ad hoc* basis, at short notice, and has no permanent secretariat.

If these arrangements be adopted and worked properly, we would be laying a much surer foundation for emotional integration than any exhortation. They would certainly be more effective in strengthening the basic unity of our land than the present system in which it is too common to call any urge for self-expression the withering away of the Union and any dissent an expression of fissiparous tendencies.

How we succeed in tackling the problem of unity in diversity is vital to us. It may also have a value for other States similarly placed. Though no two countries are identical in their background or their problems, each can profit from the experience of the other and our experience in the coming years may well have a significance extending far beyond our frontiers.

* Report of the Royal Commission on Dominion-Provincial Relations. Book II, Recommendations (pp. 68-73).

Postscript

AN EVENT of major significance that occurred between December 1963, when these lectures were delivered, and now, when they are being published, calls for a postscript. Early in January 1964, Jawaharlal Nehru broke down in health. Although he made a brave recovery and within a few weeks resumed the arduous responsibilities he had shouldered as Prime Minister since 1946, age bore hard on him. As his strength ebbed, authority both at Governmental and party levels came to be widely shared. In the cabinet a team consisting of Lall Bahadur Shastri, Nanda and Krishnamachari was mainly responsible for policy decisions. But something of the Prime Minister's fire, perception of events and initiative persisted. He took the initiative in securing the release of Sheikh Abdullah, a Kashmir leader, who had been in detention for over ten years. He permitted Sheikh Abdullah to go to Pakistan to make a fresh attempt to end Pakistan's antagonism to India over Kashmir and help the two countries to come together, a step that would provide the best guarantee for India's security and also communal harmony in both countries. That move was widely welcomed in India.

From the beginning of the year signs of change in the political horizon were visible. At Bhuvneshwar where the Indian National Congress, met early in January, Jawaharlal Nehru being incapacitated by illness from attending its meetings, the newly elected president of the Congress Kamaraj Nadar, came to the forefront. For the first time since Independence the president of the Indian National Congress ceased to be a figurehead and became an active and important element in the political complex.

On May 27th, Jawaharlal Nehru was stricken and he passed away within a few hours. He was mourned by millions of his countrymen whose sorrow was shared by others in different parts of the world. Tributes to his work, his sense of dedicated purpose, and his breadth of vision came from all over the world. For Jawaharlal Nehru was not only the Prime Minister of India, he was also the catalyst who started the process of India's transformation into a secular democratic society. His efforts to safeguard the interests of minorities and promote a sense of security among them had their impact on administration and public life. In the international field, he contributed a great deal to moderation; and he wholeheartedly supported the United Nations. His policy

of non-alignment when first enunciated was based on the fundamental interests of India and other newly independent countries. It was also partly responsible for assuaging the passions and bitterness of the cold war.

India without Nehru is necessarily different. He was the undisputed choice for Prime Ministership when the country attained independence. But within hours of his death the question of succession had to be settled by the Congress and the country. Mr. Nanda, who had become the most senior Minister, was sworn in as acting Prime Minister presumably to avoid uncertainty about the future at home and abroad.

The Congress Party had for the first time since Independence to solve two difficult problems regarding the choice of a leader. Firstly it had to decide on the procedure for election of the leader. Secondly it had to devise means to determine who was best fitted to be that leader. Although the line-up in the Congress Parliamentary party was, and is, important, nobody could ignore the composition and views of that party in the different States. There were varied shades of opinion within the party and the relative strength of the Congress was different in various States. Eventually the method chosen for deciding on the succession was something which had no exact parallel anywhere in the world, just as there was none for the Kamaraj plan as a consequence of which Ministers at the Centre and in the States were stated to have voluntarily relinquished office to serve the party!

For a clear analysis of what was achieved under the Kamaraj plan it is essential to separate the shadow from the substance, the sham from the reality. In any other Parliamentary democracy a Cabinet reshuffle of the kind achieved by the Kamaraj plan would have been recognized as a major political event and would have been identified with disagreements on policies. Such a reshuffle would have meant a fresh alignment of political objectives and forces within a party. But the mechanism for securing the removal of Ministers was so devised as to obscure the issues. Along with a fair mixture of Cabinet ministers who appeared to be a political liability or who could not work in harmony with their colleagues, some like Kamaraj Nadar and Lall Bahadur Shastri who were recognized as good members of a team, laid down office. This was to take the sting from the major political reshuffle and create the impression that its only purpose was to strengthen the party.

In deciding upon the choice of the leader, there was a similar mixture of hard political realism and illusion. The insistence on unanimity in selecting a leader was only a form. The substance was so to arrange the choice of a leader as to take account of diverse centres of authority.

The President of the Congress consulted senior members of the Cabinet who had political backing, Chief Ministers of States and members of the Congress Parliamentary Party. These along with the Congress Working Committee constituted the electoral college for choosing the most acceptable person as the leader. The method followed, it may be noted, covered such elements as "the cadres of State leadership" mentioned in the last lecture.

This is a fresh development in the Indian Federation. If a party has a comfortable majority both in Parliament and in the majority of the States, this process of consultation will naturally lead to the selection of a Prime Minister who is broadly acceptable. But what if an All India Party achieves its majority in Parliament through an overwhelming majority in five or six out of the sixteen States in India? In that event party men from the stronger centres will have a dominant voice though some attention will be paid to the wishes of party men in other States. But when an All India Party has a precarious majority in Parliament or is dependent on a coalition to carry on the tasks of Government, the choice of a Prime Minister cannot be determined without considering the views of other parties. In such conditions accommodation not only of the point of view of the different elements in one party but of other parties as well will be necessary if stable government is to be ensured.

In the present situation neither the President of the Congress nor the Prime Minister can wield the personal authority which Jawaharlal Nehru exercised. The Central Cabinet will have to take more collective decisions than ever and be collectively responsible for the acts and policies of Ministries and Government. It was suggested by the President of the Congress that in the future collective leadership alone could inspire confidence and carry the nation with it. But collective leadership implies not only that the Cabinet should work as a team but that it should consider the widest shades of opinion within the party at State and Union levels on important issues of policy. Probably the State units of the Party and the various legislatures will play a greater role in shaping the policies of the Government at the Centre.

Democracy in India has belied the fears of those who expected that Jawaharlal Nehru's disappearance from the political scene would be followed by a war of succession and chaos in administration. The change of leadership was effected smoothly; and it is to be hoped that flexible adjustments will be made in the sharing of the responsibilities between the Union and the States without sacrificing purposive direction.

An integral part of these adjustments will have to take place in the area of Centre-State financial relationship. The dependence of the

States on the Centre, the increase in conditional assistance and loans have led to control by the Centre over a vast field.* This centralized control has produced stresses and strains which do not augur well for a developing economy. Unfortunately the problems raised by the dependence of States on the Centre are not reflected in the terms of reference of the newly constituted Finance Commission. Despite the criticisms made by the second and the third Finance Commissions regarding the dangers of such dependence, the fourth Finance Commission has not been given an opportunity to examine Centre-State Financial relationships afresh.

In two respects, however, the terms of reference † of the fourth commission are an improvement on those considered by its predecessor. It is good that the recommendations of this commission are to be made available to the Government before the next plan. The State Governments will thus have an idea of the resources that will be transferred by the Centre, in drawing up their own plans. Secondly, committed and non-committed expenditure are to be examined by the Finance Commission. There is a tendency to view plan expenditure favourably, committed expenditure less favourably, and non-plan expenditure other than the committed expenditure with hostility. But the distinction drawn between plan expenditure, committed expenditure and non-plan expenditure is artificial. This is so, since past plans result in recurring maintenance expenditure on development services and to a certain extent add to other apparently non-plan expenditure. Thus increased expenditure incurred on maintenance of law and order may in many cases be attributable to increased urbanization. Also increased debt servicing is non-plan expenditure. It may be recollected that the third Finance Commission recommended that grants intended

* The problem of increasing indebtedness of the States to the Centre was adverted to by Mr. Krishnamachari, Finance Minister, in his speech on the budget this year (1964-65). "The total amount due to the Centre by the States at the end of the current financial year", Mr. Krishnamachari remarked, "will be of the order of Rs. 3,000 crores. In addition, the States liability on account of market loans at present amounts to Rs. 656 crores. Both in terms of loans from the Centre and market borrowings the States have been receiving more than what was originally contemplated in the plan. Their share of Central taxes and duties has also been increasing. Yet most of them are constantly facing ways and means difficulties of a disturbing nature. The whole position will require careful review in the context of the fourth Five-Year Plan."

† The terms of reference of the fourth Finance Commission are reproduced in an annex. See page 81

to assist the States in developing education, health services and minor irrigation projects should be given on a unconditional basis and that they should have the freedom to transfer funds from one head to another whether it be committed or non-committed expenditure, bearing in mind the broad objectives of the plan. In all these considerations the more fundamental issues appear to have been ignored. A healthy evolution of Centre-State Financial relationship ultimately depends upon the Financial Security of the States. This can be achieved only by increasing appreciably the flow of automatic assistance from the Centre to the various constituent units.

Consequent on the passing of Jawaharlal Nehru new alignments of political forces are bound to take place, both in the States and at the Centre. The manner in which they develop will be most crucial to the strength and stability of our political structure. Financial independence will have to be assured to the States in order to promote co-operation between them and the Centre. But we have to avoid two extremes. Extreme centralization will cause overstrain and friction, and may lead to frustration and growth of fissiparous tendencies. On the other hand, to allow each State to go its own way without recognizing the fact of inter dependence, will be equally ruinous to the basic unity of India. What is required above all is a constant re-appraisal of Centre-State relationship, accommodation in time and a strengthening of the bonds of fraternal co-operation between the Centre and the States. The time for constructive action is now.

ANNEX TO POSTSCRIPT

TERMS OF REFERENCE OF THE FOURTH FINANCE COMMISSION

In addition to matters (connected with distribution of Income tax and Union Excise duties between the Union and the States and determining the principles governing the grants-in-aid for the revenues to the States) on which under the provisions of Sub-clause (a) and (b) of Clause (3) of Article 280 of the Constitution the Commission is required to make recommendations, the Commission has to make recommendations in regard to the following also:

- (a) the States which are in need of assistance by way of grants-in-aid of their revenues under Article 275, and the sums to be paid to those States other than the sums specified in the provisos to clause (i) of that Article, having regard among other considerations, to:
 - (i) the revenue resources of those States for the five years ending with the financial year 1970-71 on the basis of the levels of taxation likely to be reached in the financial year 1965-66;
 - (ii) the requirements of those States to meet the committed expenditure on maintenance and upkeep of Plan schemes completed during the Third Plan;
 - (iii) any further expenditure likely to devolve upon those States for the servicing of their debt;
 - (iv) creation of a fund out of the excesses, if any, over a limit to be specified by the Commission, of the net proceeds of estate duty on property other than agricultural land accruing to a State in any financial year, for the repayment of the State's debt to the Central Government; and
 - (v) the scope for economy consistent with efficiency, which may be effected by the States in their administrative expenditure;
 - (b) the changes, if any, to be made in the principles governing the distribution among the States under Article 269 of the net proceeds in any financial year of estate duty in respect of property other than agricultural land;
 - (c) the changes, if any, to be made in the principles governing the distribution among the States of the grant to be made available to the States in lieu of taxes on railway fares;
 - (d) the changes, if any, to be made in the principles governing the distribution of the net proceeds in any financial year of the additional excise duties levied on each of the following commodities, namely,

(i) cotton fabrics,	(iv) woollen fabrics,
(ii) silk fabrics,	(v) sugar, and
(iii) rayon or artificial silk fabrics,	(vi) tobacco (including manufactured tobacco)
- in replacement of the States sales taxes formerly levied by the State Governments: Provided that the share accruing to each State shall not be less than the revenue realized from the levy of the sales tax for the financial year 1956-57 in that State;

- (e) the effect of the combined incidence of a State's sales tax and Union duties of excise on the production, consumption or export of commodities or products, the duties on which are shareable with the States, and the adjustment, if any, to be made in the State's share of Union Excise duties, if there is any increase in the State's sales tax on such commodities or products over a limit to be specified by the Commission.

The recommendations of the Commission shall, in each of the above cases, cover the period of five years commencing from the 1st day of April 1966.

The present scheme of devolution of revenue from the Centre to the States, which has been evolved after taking into account the recommendations of the Third Finance Commission and is applicable to the four year period ending 1965-66, is as follows:—

- (a) 66⅔% of the divisible net proceeds of income tax (other than Corporation Tax) are assigned to the States and distributed amongst them on the basis of population (80%) and collection (20%);
- (b) 20% of the net proceeds of the Union duties of excise on all commodities, other than motor spirit, on which duty was collected in 1960-61 excluding those (but not excluding silk fabrics) on which the yield was below Rs.50 lakhs a year (total commodities 35) are distributed amongst the States on the basis of population (as major factor), relative financial weaknesses of States, disparity in levels of development, percentage of Scheduled Castes and Tribes and backward classes in their population;
- (c) the grant-in-aid in lieu of tax on Railway fares is distributed on the basis of compensation, i.e. what States were getting before the tax was abolished;
- (d) the net proceeds of the Estate Duty are distributed between the States in proportion to their population, except that the amounts collected in respect of immovable properties are distributed on the basis of location of those properties;
- (e) in respect of the net proceeds of additional duties of excise on textiles, sugar and tobacco levied in lieu of sales tax the guaranteed amounts are first paid to the States, i.e. the revenue realized from the levy of the sales-tax for the financial year 1956-57 in that State and the balance on the basis of percentage increase in the collection of sales tax since 1957-58 and partly on the basis of population;
- (f) grants-in-aid of revenue of specified amounts are made to the States on an assessment of their needs based on a review of their budgetary position and the size of their committed expenditure out of revenues. Specific grants are also made to certain States for the improvement of their communications.

The Fourth Finance Commission will review these arrangements. It will consider the modifications and adjustments, if any, called for in the present devolution scheme including the arrangements regarding grants-in-aid under Article 275(1) of the Constitution.

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AID TO AFRICA

I. M. D. LITTLE

Fellow of Nuffield College, Oxford

The author of this pamphlet is carrying out a general study of British aid policy for the Overseas Development Institute. While gathering material for this study, he visited Africa for eleven weeks. What he saw in that continent prompted him to produce an immediate account of the situation there and the policies of the developed countries which give aid to Africa.

This pamphlet is broadly concerned with Africa south of the Sahara, an area which in 1962 received about 17% of the total of world aid. But it is more particularly concerned with British aid policy and hence with the 15 U.K. and ex-U.K. territories which receive almost all British aid to Africa south of the Sahara. These territories account for half of the world total of U.K. aid. The problem of how aid is best given to these areas is discussed and analysed.

Economists, politicians and all those concerned with, or interested in, this important and vital subject, will find this pamphlet gives a very informative and critical account of the situation as it stands today.

DEVELOPMENT MEANS PEOPLE

edited by D. TAYLOR

Editor "New Commonwealth", Governor Commonwealth Institute

Whilst the quality and availability of trained manpower is a major factor governing the economic growth of a nation, precise information on this subject is non-existent for many of the newly developing countries. This problem, and many others covering all aspects of training people for the developing countries, were discussed in a series of broadcasts, the transcripts of which are contained in this book. The broadcasts took the form of interviews between Mr. Taylor and a number of world famous authorities in manpower planning in education, industry, management, agriculture, administration, publishing, etc. In all fields, the problems facing the developing countries are discussed, and various solutions are put forward to these problems. The discussions are of special interest to the informed person, and particularly to those who have to deal with the production of trained people.

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Dr. A. Krishnaswami has a high reputation as an administrator. He is a Barrister-at-Law and an Advocate of the Supreme Court of India. A Member of the Indian Parliament (Lok Sabha) from 1952 to 1962, he is also a Member of the Subcommission, Human Rights, (United Nations).

Consisting of the Sir William Meyer Endowment Lectures, delivered at the University of Madras for students, professors, publicists and administrators, this book deals with the relationship between the Centre and States of the Indian Union, the historical factors that led to federation, and the impact of political forces, planning and administrative developments on the Constitution. In this process, the book points out, the autonomy of the States eroded and, consequently, the initiative for economic advance weakened, and Finance Commissions, charged with the allocation of revenues, shrank in importance. The attempts made by the Centre as well as by State leaders to rehabilitate States' autonomy are assessed. The author emphasises that national integration and solidarity is best promoted by harmonizing the autonomy of the States with the powers of the Centre in a co-operative federation. The account is brought up to date by including a postscript on the events and changes that followed immediately after Jawaharlal Nehru's death. The book will be useful to lecturers and teachers and to students of comparative government and of political and economic administration. It provides both valuable factual information, and a stimulus to thought and discussion.

